2.4 Appendices
- 2.4.1 Appendix A: Administrative Space Guidance Revised 4/2012
  - 2.4.1.1 Space Order 4665.4 - Standard Operating Process, Procedure and Guidelines for Administrative Space Revised 1/2011
  - 2.4.1.2 Chief Financial Officer Review of GSA Space Request over $10 Million Added 1/2010
  - 2.4.1.3 Occupancy Agreement Checklist for GSA-Owned and GSA – Leased Space Added 7/2010
- 2.4.2 Appendix B: Vehicle Parking Guidance Revised 4/2012
- 2.4.3 Appendix C: Rural Development Act Guidance Revised 4/2012
- 2.4.4 Appendix D: Lease Terms Revised 4/2012
- 2.4.5 Appendix E: Rent-Free Guidance Revised 4/2014
- 2.4.6 Appendix F: Short-term Conference and Meeting Space Revised 4/2012
- 2.4.7 Appendix G: Security Revised 4/2012
- 2.4.8 Appendix H: Seismic Revised 10/2014
- 2.4.9 Appendix I: Accessibility Revised 4/2012
- 2.4.10 Appendix J: Outgrant Revised 4/2015
- 2.4.11 Appendix K: Supplemental Lease Agreement (SLA) Revised 10/2015
- 2.4.12 Appendix L: Contracting Officer Representative (COR) Added 1/2007
- 2.4.13 Appendix M: Labor Standards/Davis Bacon Revised 7/2009
- 2.4.14 Appendix O: Disaster or Emergency Janitorial Services Revised 4/2012
- 2.4.15 Appendix P: Prohibited Real Estate Broker Services Added 7/2010
  - 2.4.15.1 Sample Prohibited Letters Attachment A: Hiring a Broker Added 7/2010
  - 2.4.15.2 Sample Prohibited Letters Attachment B: Broker Letter to potential lessor Added 7/2010
  - 2.4.15.3 Sample Prohibited Letters Attachment C: Letter of Termination with Broker Added 7/2010
  - 2.4.15.4 Sample Prohibited Letters Attachment D: Letter of Intent Added 7/2010
- 2.4.16 Appendix Q: Environmental / Sustainability / Energy Revised 10/2015
  - 2.4.16.1 HPSB Federal Leadership Revised 10/2015
  - 2.4.16.2 HPSB Definitions Revised 10/2015
  - 2.4.16.3 HPSB Guiding Principles for Federal Leadership Revised 10/2015
  - 2.4.16.4 HPSB: Frequently Asked Questions on Guiding Principles Revised 10/2015
- 2.4.17 Appendix R: Managing Rent Adjustment Clauses After Lease Award Added 10/2015

2.4 Appendices

2.4.1 Appendix A: Administrative Space Guidance Revised 10/2012

I. General:

The following guidance presents the space standard for all administrative space in FAA owned, leased and GSA controlled facilities. The following guidance is designed to promote the efficient utilization of FAA administrative office space. This guidance has been developed to help FAA LOB and Staff Offices (SO) effectively plan and manage FAA's real property use and cost. Since there are many variables associated with space, e.g. configuration of existing space, funding limitations, available furniture, etc., it makes it impossible to establish rigid space standards. Therefore the administrative space standard establishes a baseline for all FAA LOB and SO (referred to as the "originating office" in this document) to use in order to determine and evaluate individual administrative office needs. This space standard should be adhered to and deviated from only in those instances when documentation supports such deviation. This administrative space standard applies to all authorized personnel (i.e. permanent, temporary, part-time, seasonal employees and approved FAA contractors). It should be noted that Operating (Technical) Space for terminal should follow the Terminal Facilities Administrative and Operational Space Guidelines (October 30, 2007). Under this guidelines the administrative space follows the standard under this guidance.

II. APPLICABILITY:

This standard is applicable to all FAA owned, FAA leased and GSA controlled administrative space except for those facilities defined in Section VI, Exemptions to the Administrative Space Standard below. Existing space will be subject to the space standard when an originating office alters/reconfigures or acquires additional or new space or occupies GSA controlled space (see section IX, GSA Controlled Space).

III. DEFINITIONS:

Below are definitions for commonly used terms in this guidance.

1. **Administrative Primary Office Space -** Primary Office Space is the personnel-occupied area in which an activity's normal operational functions are performed. Space is allocated based on the total number of authorized personnel (permanent, temporary, part-time, seasonal employees and approved FAA contractors) occupying open or closed office work areas.

2. **Administrative Support Space -** All secondary/shared workstations, extraordinary circulation space, and space for those specific mission needs outside the agency's requirements for housing personnel. This includes space for mission needs such as reception/waiting areas, meeting areas, file areas, central storage areas, processing areas, and, conference rooms not having special buildout, library and reference areas.

3. **Acquiring Organization -** The regional real estate section in Logistics or the space management organization in the centers is the main point of contact for space requests.

4. **Common Use Space –** Space used by multiple FAA organizations and available for use by all FAA personnel. Space such as conference rooms (not associated with a single FAA organization), general reception areas, loading docks and shipping and receiving platforms, etc.

5. **Hotelling -** Employees reserve workspace in advance at the corporate office where there are fewer workspaces than staff (the ratio of staff to offices can be anywhere from 2:1 to 10:1 or higher).

6. **Joint Use Space -** Space that benefits all of the building tenants such as cafeterias, conference rooms (those not under FAA control), credit unions, snack bars, health/fitness facilities, and child care centers.

7. Occupiable Square feet - The method of measurement for the office area where FAA occupies a facility.

It is determined as follows:

- If the space is on a single tenancy floor, compute the inside gross area by measuring between the inside finish of permanent exterior building walls or from the face of convectors (pipes or other wall-hung fixtures) if the convector occupies at least 50 percent of the length of exterior walls.

- If the space is on a multiple tenancy floor, measure from the exterior building walls as above and to the room side finish of fixed corridor and shaft walls or the center of tenant-separating partitions.

In either case, make no deductions for columns and projections enclosing the structural elements of the building and deduct the following from the gross area including these enclosing walls:

a. Toilets and lounges

b. Stairwells

c. Elevators and escalator shafts

d. Building equipment and service areas

e. Entrance and elevator lobbies

f. Stacks and shafts and

g. Corridors in place or required by local codes and ordinances.

8. **Office Space -** Space which provides an environment suitable for an office operation. There are two categories of office space: primary office space and support space (see definitions for Administrative Primary Office Space and Administrative Support Space for further details). Typical office standard space is constructed with the following finishes: carpet, lights, ceiling, HVAC and painted finished walls.

9. **Operating (Technical) Space -** Operating (technical) space is defined as space required to house the installation or operation of air traffic control and/or air navigation equipment, research and development laboratories and other project-related spaces. It should be noted that Operating (Technical) Space for terminal should follow the Terminal Facilities Administrative and Operational Space Guidelines (October 30, 2007) (For publication contact ATO Corporate Real Estate Office - AJA-15). Under these guidelines the administrative space follows the standard under this guidance.

10. **Originating Office -** This may be either the using office or an office in the organizational or supervisory line with responsibility for obtaining space for the using office. This office develops space requirements and prepares a request for the space with sufficient information for development and validation of the requirements.

11. **Non-Office Personnel -** Personnel assigned to operational or other space should not count towards the administrative space utilization standard.

12. **Personnel** - means the peak number of persons to be housed by a LOB/SO during a single 8-hour shift, regardless of how many workstations is provided for them. In addition to permanent employees of the agency, personnel include temporary, part-time, seasonal, and approved contractual employees and budgeted vacancies. Regional or Field offices should also include detailees from other Regions, Headquarters and/or non-DOT agencies. Headquarter offices should include detailees from the Regions and/or non-DOT agencies but not from other Headquarter offices. Employees of other LOB/SO who are housed in the space (i.e. Integrated Product Teams, etc.) are also included in the personnel total.

13. **Special Space -** Special space means unique architectural/construction features, requiring the installation of special equipment or requires additional monies above the standard office space to construct, maintain and/or operate as compared to office and storage space.

14. **Storage Space -** Space that is not constructed to office type standards and is only suitable for storage purposes. Space generally consisting of concrete, woodblock, or unfinished floors, bare block or brick interior walls; unfinished ceiling; and similar construction containing minimal lighting and heating. Supply rooms, storerooms, file rooms and warehouse areas that are not finished to office standards are classified as storage space.

15. **Telecommuting -** (Work-at-home) Home-based workers who bring work to their home, eliminating the need to commute to the work site.

16. **Telecommuting Centers** (Satellite Office) Alternative work site located closer to employees' homes that provide all office services. May be used on a full-time or part-time basis by those who want to shorten their commute but cannot work from home, or by telecommuters as a support site for copying, faxing, etc.

17. **Types of Space -** There are three (3) types of space occupied by FAA: 1) FAA owned, 2) FAA leased, and 3) GSA controlled space.

IV. UTILIZATION SPACE STANDARD:

The average utilization rate for all administrative space occupied by FAA LOB and SO will be 152.5 occupiable square feet per person (osf). A person is the following type of employees: permanent, temporary, part-time, seasonal employees and approved FAA contractors. Any exemptions to this administrative space standard are defined in Section VI, Exemptions to the Administrative Space Standard below. The 152.5 is an average per person, however the square footage for any specific individual may vary up or down from the average.

The administrative space standard is a calculation involving the number of personnel, the circulation factor, and the following types of space: all office areas (closed or open), shared workstations, originating office conference rooms, reception/waiting areas, meeting areas, file areas, central storage areas, processing areas, and library and reference areas. Below is the method to calculate the utilization rate for originating office requirements.

1. Administrative Office Space Utilization Rate: The average Administrative Office Space utilization should not exceed 125 square feet per person. The 125 square feet per person is the utilization rate for the primary office area. Administrative Office space is all office areas where normal operational functions are performed by personnel (see Section II, administrative primary office space definition). This square footage standard stands regardless of the types of furniture options (freestanding, modular or systems). Circulation allowances are included in this number.

2. Administrative Support Space Percentage: The support space should not exceed 22 percent of the primary office space. Allowances may be made for those unique functions that require additional support space above the primary support factor of 22 percent. Administrative Support Space should accommodate the following areas: reception/waiting areas, meeting areas, file areas, central storage areas, processing areas, mail areas, work areas, conference rooms not having special buildout, library and reference areas and aisles and corridors.

3. Total Utilization Rate Formula: The calculation formula for the average amount of administrative office and support space per person is as follows: 125 sq. ft. + (125 sq. ft. X 22%) = an average of 152.5 osf per person

V. DEVIATIONS TO THE ADMINISTRATIVE SPACE STANDARD OF 152.5 SQUARE FEET

The originating office must submit a written justification with the requirements package for any increase in space above the 152.5 square foot average per person standard to the approving official at the LOB/SO headquarters office. This written justification must be based upon mission or unique requirements such as limited space due to building configuration. The approving headquarters official must also certify funding availability. See Section VIII for additional details on funding. The originating office must send the approved waiver with requirements package to the RECO or to the Mike Monroney Aeronautical Center (MMAC) Space Manager, AMP-400. The RECO or the space manager should acknowledge the approved waiver and acquire the additional space, if available.

VI. EXEMPTIONS TO THE ADMINISTRATIVE SPACE STANDARD:

Below is a list of examples of exempted space types from the administrative space standard. If an originating office's requirements do not fit any of the exemptions below, the RECO will make a

determination on a case-by-case basis.

A. Special Space - Space with unique architectural/construction features, requiring the installation of special equipment or requires additional sums to construct, maintain and/or operate as compared to standard office and storage space. Special space provides space for an originating office to perform special or unique functions such as an engineer requiring a drafting desk, which is larger than a typical workstation.

Examples of special space:

1. Food Service Areas: Cafeterias, Snack Bars, Mechanical Vending Areas, and Private Kitchens.

2. Laboratories

3. Libraries with special stacks (shelving) requiring load-bearing floors (normal floor loading is 80 live load and 20 dead load).

4. High-density filing areas

5. Auditoriums

6. Training classrooms

7. Automatic Data Processing Rooms - areas having special features such as humidity and/or temperature control, raised flooring, and ceiling heights exceeding office standards, and extensive power requirements.

8. Computer rooms, telecommunication rooms with special environmental requirements

9. Computer Tape Vaults

10. Conference Rooms with special equipment and/or HVAC

11. Sensitive Compartmentalized Information Facility (SCIF) area

12. Hot Copy Rooms

13. Operating (Technical) space - see section C.

14. Shop type space

15. Light-Industrial type space

B. Storage Space - Storage space is not constructed to office type standards and is only suitable for storage purposes. Space generally consisting of concrete, woodblock, or unfinished floors, bare block or brick interior walls; unfinished ceiling; and similar construction containing minimal lighting and heating including: supply rooms, storerooms, and file rooms that are not finished to office standards. Storage space is typically located in the basement or garage of a

building.

C. **Operating (Technical) Space -** space required to house the installation or operation of air traffic control and/or air navigation equipment, research and development laboratories and other project-related spaces. Operating (Technical) space tends to be the dominant space in a facility whereas administrative is space supporting the operating function. Any administrative space requirements within operating space are subject to the 152.5 sq. ft. baseline.

D. Small, stand-alone operating field offices (i.e. Airport Field Office) that have eight or fewer total personnel should be housed as efficiently as possible.

E. The shape and design (configuration) of a building and its impact on space utilization may be considered an exemption. Although the originating office should submit to the RECO for review documentation to support this factor as an exemption.

VII. PLANNING AND DEVELOPING ADMINISTRATIVE SPACE REQUIREMENTS

Prior to acquiring or constructing space, the originating office should submit their requirements to the acquiring organization, the RECO, in order to determine their actual space needs. Requirements received from the originating office may be general or specific in nature. If the originating office chooses to submit specific requirements, they may choose the option to fill out the Space Requirements Questionnaire (see Space Forms, 14) or any other space-planning checklist. When planning and developing their administrative space requirements, the originating office should use the administrative space standard as a baseline. Originating office should also remember that when developing requirements, the space measurement used is occupiable square footage. For more information on "occupiable square feet" see definitions section III.

Determine if vacant space is available at other FAA-owned or leased facilities for these administrative space needs. If the administrative space requires the construction of a new facility, first determine if FAA-owned property is available to build this facility on. The order of priority is to occupy existing a.) FAA-owned space b.) FAA-leased space c.) GSA controlled space prior to acquiring commercial or privately owned space. Provide ample notification to the RECO or FAA Space Management organization during the planning process to assure availability of space when it is needed.

The RECO can provide assistance to the originating office with filling out the questionnaire. If FAA or GSA space is not available, or special program needs dictate otherwise, then commercial or privately owned space may be acquired. It should be further noted that space requirements development (through the appropriate local space management organization) is one of the initial steps to begin the acquisition space process. Once an originating office submits their requirements, the RECO can proceed with rest of the acquisition steps listed below. All the steps listed below are coordinated by the RECO with the originating office. For example the RECO sets up and attends all market surveys. Once the acquisition process is over the RECO is authorized to commit the government to using space.

Below are list of the steps for the acquisition space process.

1. Requirements and Planning

2. Advertising

3. Procurement Method

4. Market Survey

5. Request for Offers

6. Negotiations

7. Evaluation of Offers

8. Award

The above acquisition process varies slightly for space requirements under 10,000 square feet. For further information on the space acquisition process please see Space Guidance above.

Questions to ask prior to planning and developing requirements:

When an originating office is developing their requirements for administrative space, they should keep the following questions in mind. They may also work with the RECO in answering the questions together.

- Can a variation from the space standard be justified on the basis of mission or unique requirements?
- Is the planned assignment based on an open floor plan with systems furniture, with one workstation per person?
- Can adjustments be made for workstation sharing, telecommuting, hotelling, working in shifts, etc.?
- How much of existing space buildout can be used? How much space planning will be required?
- Will the building design and shape have an impact on the administrative support space percentage?

Space Requirement Questionnaire:

After the originating office has considered the above questions, they have the option of filling out "Space Requirement Questionnaire" or any other space-planning checklist. The RECO can assist the originating office with completing the Questionnaire. By completing the attached Questionnaire, the originating office can identify their specific requirements to support and justify their space needs. Once the originating office finishes the questionnaire, it should be forwarded to the acquiring organization for assistance in determining their final requirement.

VIII. BUDGET PLANNING FOR ADMINISTRATIVE SPACE REQUIREMENTS:

When planning for space requirements an originating office should always consider the full economic cost of real property. All FAA organizations need to remember the importance of

budget planning for real estate costs when beginning their initial planning of a space requirement(s). For all FAA owned and leased space, the originating office should prepare a line item budget for all employee space needs. All FAA organizations must be familiar with the budgetary impacts of long leases and plan accordingly if they contemplate leases for space that may exceed 5 years in duration. See OMB Circular A-11, Appendix B, "Budgetary Treatment of Lease Purchases and Leases of Capital Assets" for further information. ALO-100 prepares all GSA occupied space budget line items.

Furthermore, the originating office should consider preparing a budget line item for furniture (workstation) replacement every fifteen (15) years. The budget planning for space requirements by the originating office should also consider the periodic program modifications that would result in workspace expansion or alterations.

Suggestions to LOB/SO are to consider saving money.

- If an organization's current or future year budget proposes new programs or initiatives, include the real property implication of the programs. The organization should include funding projections for associated real property costs as well as the cost of the programs.
- Organizations should budget for space requirements in two phases. First, the organization should request a line item in their budget for their initial space request. Second, as the organization has defined their requirements, selected a site and received an estimated cost for buildout above the base lease, the organization should budget for a total lump sum amount instead of amortizing the entire design and construction cost.
- Organizations should perform a cost analysis to determine if it is more economical to construct a new facility rather than leasing.

IX - GSA CONTROLLED SPACE CLARIFICATION

Headquarters (ALO-100) must approve all GSA controlled space requests prior to the acquiring organization (i.e. AXX-50) taking action on the request. LOBs/SOs must fund any new requests for space not previously identified in the GSA rent budget submission. LOBs/SOs must submit written mission related justification for any additional space requirements in excess of the 152.5 square feet baseline. If the request for additional space is approved, the LOB/SO must pay for the additional rental cost over the 152.5 square feet baseline. Depending on the operations budget in any given fiscal year, LOBs/SOs may be charged for existing space that is occupied over the 152.5 square feet baseline. This means that if a LOB/SO currently has a utilization rate of 170 square feet per person, the LOB/SO will have to supplement the GSA rent for 17.5 square feet per person that they are over the 152.5 square feet baseline

Below are the rent supplementation procedures for GSA controlled space:

SUPPLEMENTATION PROCESS
COVERED UNDER THE GSA

RENT PROGRAM

The supplementation process outlined below is applicable to both regions and

headquarters. The utilization rate of 152.5 square feet per person standard applies to both federal and approved FAA contract personnel housed in GSA controlled space. In addition, when a LOB or SO current utilization and future needs are being assessed, the Logistics Divisions in the regions and the Facilities Management Division at Headquarters will evaluate a their total square foot usage, including that occupied by its contractors. Base fund transfers will be the mechanism utilized to effect changes in rent fund allocations. This method allows all funding to remain under one accounting classification.

Prior to the supplementation process the region should complete the following:

- Upon receiving a request for additional space from a LOB/SO, the region will evaluate the existing space of the LOB/SO. If the LOB/SO utilization rate for that location exceeds the 152.5 sq. ft. criteria, the feasibility of satisfying the requirement in the existing space should be determined.
- If the requirement can not be satisfied within the existing LOB/SO space, the region will determine if the request can be satisfied in other existing space (FAA owned or FAA leased, or other GSA assigned space)
- If the requirement can only be satisfied with additional space, the LOB/SO may pursue supplementation.

<u>Supplemental Procedures</u>:

1) Prepare a memorandum to the Manager of the Facilities Management Division, ALO-100 outlining the transfer of operational funds from the requesting office to the GSA rent account to cover GSA rent charges. NOTE: The transfer of F&E funding is not a viable option because GSA Rent is funded through operational dollars.

2) The memo will include justification for the additional space, location, and terms of the agreement, requesting office, square footage, and the annualized rental amount. For your convenience, attached is a sample memorandum.

3) The transfer of operational funds memorandum will have to be processed starting each fiscal year for the duration of the requirement. If the commencement date starts during the fiscal year, the date should agree with the month and day. Supplementation will be effective based on the month and day the space is occupied.

4) In the last year of the lease, transfer of the operational funds memorandum will only cover the months that organization will occupy the space.

Short-Term GSA Space (requirements one year or less)

- Headquarters Requests. The memorandum transferring funds will then be forwarded to the Manager of the Accounting Operations Division, AFM-200, to obligate the operational funds.
- Regional Requests. The requesting organization will prepare the memorandum and forward to their Logistics Office. The Realty specialist will evaluate the request and provide ASU-400 with the appropriate accounting code and copy of the memorandum. After review, ASU-400 will forward to AFM-200 to obligate the funds. The memorandum should be prepared two weeks prior to obligation.

Long-Term GSA Space (requirements one year or more)

- **ASU-400 will forward the headquarters and/or regional memorandum/request to** ABU-200 with a courtesy copy sent to AFM-200.
- ABU-200 will request LOB's Headquarters to approve the request to transfer the funding.
- Upon authorization from the Headquarters level, ABU-200 will prepare an allowance document to transfer the funds from the requesting organization's budget baseline and increase ASU-400 GSA Rent baseline. The memorandum should be prepared four weeks prior to obligation.

X. Frequently Ask Questions (FAQ)

Q: How do I determine the administrative space standard for my organization?

A: The standard is the same for all FAA administrative space, 152.5 square feet per person.

Q: What if my organization does not fit one of the examples of exemptions? What do I do and whom do I speak with?

A: If you are unsure if the type of space your organization occupies is exempted from the administrative space standard, you need to contact your region/center RECO (AXX-50's, AMP-1).

Q: Who decides if my space meets the exemptions or not?

A: The RECO will determine if your space is exempted from the standard.

Q: What if my organization needs help to fill out the "Space Requirement Questionnaire"?

A: If you need help filling out the Space Requirement Questionnaire, you can contact your region/center RECO. The RECO will help you fill out the form.

2.4.1.1 Space Order 4665.4 - Standard Operating Process, Procedure and Guidelines for Administrative Space Revised 1/2011

The FAA currently occupies approximately 5 million square feet of administrative space including GSA-controlled, FAA-owned and leased space. Managing this amount of space caused the development of the FAA Administrative Spaceholders Management Council (ASCM) Standard Operating Process, Procedures and Guidelines (SOP), which was approved by the FAA Administrator with an effective date of March 13, 2010. Since then Space Order 4665.4 for administrative space was developed by the ASCM and approved by the FAA Administrator with an effective date of July 17, 2010. The Order provides the management of administrative space by determining if projects are major or minor, reviewing the feasibility and affordability of new space related projects, and ensuring that building infrastructure issues were analyzed. This Order supersedes the ASCM SOP referenced above and all previous Administrative Space Orders for all lines of business.

The RECO and requesting office must use Space Order 4665.4 for administrative space. The Order applies to all new construction, newly leased space (GSA controlled or FAA direct), space renovations, and space reconfigurations.

2.4.1.2 Chief Financial Officer Review of GSA Space Request over $10 Million Added 1/2010

The Administrator, in a memorandum dated August 11, 2005, directed the Chief Financial Officer (CFO) to exercise greater control and fiscal oversight over FAA contracting, specifically by giving the CFO approval authority over all proposed procurement actions of $10 million or more. To accomplish this greater control and fiscal oversight, FAA program offices must submit their proposed procurement actions for CFO review to the Office of Financial Controls early enough in the acquisition process so that the CFO can effectively participate. Reviews of potential commitments are required before negotiation and finalization. The CFO requires an effective contribution; therefore, the Office of the Assistant Administrator for Regions and Centers (ARC) requests that all proposed procurement actions requiring the CFO review to be submitted to ARC prior to commitment with the General Services Administration.

The CFO's approval is required on all original actions of $10 million or more that would result in the following: other procurement actions or any other binding commitment, such as a lease.

The Assistant Administrator for Regions and Centers (ARC) internal approval process is outlined below to assist in planning a new GSA lease, renewal, continuing need, renovation or expansion.

- The business case package is presented to the Real Estate Contracting Officer (RECO) from the Line of Business (LOB).
- The RECO reviews the business case package and provides comments that include one-time cost, i.e. alterations, furniture, etc., related to the project that must be approved by the RECO and concurred by Logistics Service Area Managers. If another LOB is paying for part of the procurement, a memorandum of agreement will be part of the business case package to be forwarded to the Headquarters Facility Management Division (ALO-100).
- The RECO will forward the business case package to ALO-100 for final review and approval.
- The business case package must include at a minimum, with the Regional Administrator's concurrence on, the following information:

    - o Chief Financial Officer Acquisitions Form o Business Case & Executive Summary
    - o GSA Market Survey Price Methodology document o Occupancy Agreement from GSA
    - o Memorandum of Agreement from LOB, if required

- ALO-100 will forward the business case package to the ARC Resource Management Staff (ARC-10) for review and approval of other cost outside of the GSA Rental cost
- ARC-10 will provide comments and concurrence and forward to ALO-1
- ALO-1 approves and signs the Request for Approval form for submittal to the Chief Financial Officer (CFO)
- Once the CFO approval process occurs, the CFO's office forwards the approval to ARC-1

- ARC-1 notifies ALO-1 of the approval, who forwards the package to ALO-100
- ALO-100 provides the RECO the authorization to sign the Occupancy Agreement (OA). A copy of the OA is forwarded to ALO-100 to be made part of the real estate lease file.

2.4.1.3 Occupancy Agreement Checklist for GSA-Owned and GSA-Leased Space

Added 7/2010

A significant portion of the FAA's portfolio of space is GSA leased or owned space. The FAA's occupancy of GSA space is governed by the GSA Occupancy Agreement (OA). RECOs and Executive Operations Staff should use the FAA Occupancy Agreement Checklist for GSA-Owned and GSA-Leased Space in their assessment and review of GSA OAs.

2.4.2 Appendix B: Vehicle Parking Guidance **Revised 4/2012**

A. Requirements:

Managers responsible for implementing the provisions of this policy on vehicle parking should assess the parking requirements of their workforce, the available parking at the facility and in the vicinity, the requirements established in FAA Order 1600.69 (FAA Facility Security Management Program), the requirements of both the Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act (ADA), and the cost of implementing this policy to the maximum extent possible. The FAA has determined that both UFAS and ADA apply to all FAA facilities; where there is an overlap in parking requirements, the FAA shall implement the more stringent requirement. Be sure to include requirements for accessible parking spaces in the assessment and the requirement sent forward to the RECO.

B. Parking at GSA-Controlled Buildings:

In new or existing space provided for FAA use, GSA parking policies will be followed. Requests for new leased space or requests for renewal of existing leased space should include FAA's parking requirements for official and employee vehicles. Special requests for accessible parking must be clearly delineated. GSA is currently billing parking at a per-space rate and will break out the cost of parking as a separate line item in the GSA rent. Although accessible parking spaces are larger in area, GSA attempts to negotiate the same rate for accessible and regular parking spaces.

C. Parking at FAA Owned or FAA Leased Buildings

Adequate parking for official and employee vehicles should be provided at the time a facility is initially constructed or leased. If parking requirements subsequently change, the requiring activity shall identify the new requirements and funds for the additional parking. At some FAA facilities and duty stations, especially at airports, adequate on site employee parking is not available and commercial parking is exceedingly expensive. In these instances, every reasonable effort shall be made to obtain free employee parking that is at least equivalent to the parking accommodations provided to employees at the airport or commercial entities in the nearby area. The cost the FAA negotiates for these parking spaces should be at or below market value (e.g. if the airport has negotiated a lower than market rate for its employees, the FAA should attempt to

negotiate an equivalent below market rate). In some instances this may result in employees parking at satellite parking facilities located some distance from their facility or duty station and utilizing a shuttle bus service to reach their workplace. In order to determine the adequacy of parking facilities of this type, facility managers should carefully evaluate the frequency of the shuttle service, the safety of employees at satellite parking facilities, and the costs of acquiring alternative parking accommodations located closer to the FAA facility or duty station. If accessible parking cannot be provided at the facility, the shuttle transportation to and from the remote lots must be equipped with accessible boarding equipment so that FAA employees with disabilities can reach their duty station during working hours.

D. Allocation of Parking Spaces Available at Facilities:

1. Accessible parking spaces [as defined in UFAS and/or ADA] shall be provided for FAA employees with disabilities. All visitors parking shall also meet the requirements of ADA and/or UFAS. Since the FAA may not be able to provide one hundred percent of the desired non-accessible parking spaces, the available FAA parking spaces (exclusive of accessible spaces) at both FAA owned and leased facilities shall be allocated in accordance with the following priorities:

2. Government-owned and Government-leased vehicles used for criminal apprehension, firefighting, and other emergency functions (Official Vehicles)

3. Government-owned and Government-leased vehicles for general use (Official Vehicles)

4. Visitor parking (required number of spaces must take into account the accessible spaces required by UFAS and/or the ADA Accessibility Guidelines).

5. Vanpool/carpool vehicles (State statutes may affect this priority.)

6. Executive personnel and employees working unusual hours. Employees who are periodically called back to work outside their normal duty hours are considered to be working unusual hours. Employees who periodically or regularly work second and/or third shifts are not considered to be working unusual hours.

7. Employee-owned vehicles that are routinely used for Government purposes at least 12 days per month and that qualify for mileage reimbursement and travel expenses under Government travel regulations

Other employee-owned vehicles

NOTE: ONLY 1. AND 2. ABOVE WILL BE DESIGNATED AS RESERVED PARKING.

E. Electrical Outlets for Engine Block Heaters:

Parking facilities owned or leased by the FAA and located in geographic areas with sustained low temperatures, zero degrees Fahrenheit or below, should be equipped with an adequate number of electrical outlets for official and employee-supplied vehicle engine block heaters.

When electrical outlets for engine block heaters are required by climatic conditions, all accessible parking spaces will be equipped with accessible outlets. Electrical outlet installations shall be in accordance with all applicable codes and ordinances. As a guide for determining whether electrical outlets for engine block heaters are required, a survey of local area businesses, private employers, and other facilities in the area may be undertaken and a decision reached based on whether the survey shows that electrical outlets are being provided at the facilities surveyed. This requirement for electric outlets for engine block heaters does not apply to unattended technical facilities or those facilities visited only on a periodic basis for maintenance and/or service.

F. Funding

Initial FAA leases should be negotiated so that the rental payment includes parking costs. When negotiating for FAA leased space, the RECO should negotiate the best price for both the required square feet of building space and the required number of parking spaces (for official Government vehicles and employee vehicles) as determined and justified by the requiring activity. The lease should clearly document the number of reserved and unreserved parking spaces that are included in the rent. If it becomes necessary to install electrical outlets for engine block heaters at existing leased parking facilities, the RECO should have the lessor install the electrical outlets and either amortize the installation costs over the term of the lease or pay for the installation costs in a lump sum. Payment of the additional utility costs generated by the use of the electrical outlets will be negotiated by the RECO as either an increase in rent or as a separate utility contract. If installation of electrical outlets is necessary at FAA-owned facilities, funding for the installation should be obtained through the normal budget process by the parent division of the field office that will benefit from the installation. At collocated offices and facilities, a proportional share of the cost to install electrical outlets should be agreed to by the parent divisions of the collocated offices and facilities. Where the FAA is getting “Rent Free” Space (under grant provisions), from an airport sponsor, the parking for “official Government vehicles” shall also be provided at no cost to the Government.

G. Responsibilities

1. The Manager, Facilities Management Division, at Headquarters is responsible for determining the adequacy of parking within the FAA Headquarters buildings and for implementation of all regulations and requirements. Suitable parking accommodations may be acquired as a result of new leases or modifications to existing lease agreements, through new construction contracts, or through contracts with commercial parking facilities. Funding for parking requirements will be acquired through the normal budget process.

2. Regional administrators and center directors are responsible for overall implementation of this order at the regional, center, and field facilities under their respective jurisdictions.

3. Regional division managers are responsible for determining the adequacy of parking at field facilities that fall within their operational jurisdictions. When parking accommodations are found to be inadequate, regional division managers will initiate requests for any funding needed to correct the parking inadequacies through the normal

budget process. Upon receipt of funds, regional division managers will initiate requests to the Regional Logistics division managers. Logistics managers are responsible for acquiring adequate parking accommodations through new leases or modifications to existing lease agreements, through new construction contracts, or through contracts with commercial parking facilities.

4. The Program Director, Office of Facility Management, at the MMAC, is responsible for determining the adequacy of parking at the MMAC. When parking accommodations are found to be inadequate, the Program Director will initiate requests for any funding needed to correct the parking inadequacies though the normal budget process. Upon receipt of funds, the Program Director, Office of Facility Management, will initiate requests to the Program Director, Office of Acquisition. The Program Director, Office of Acquisition, at the Mike Monroney Aeronautical Center (MMAC), is responsible for acquiring adequate parking accommodations through new leases or modifications to existing lease agreements, through new construction contracts, or through contracts with commercial parking facilities.

5. The Manager, Logistics Division at the FAA Technical Center, (FAATC) is responsible for providing adequate parking at the FAATC. Suitable parking accommodations may be acquired through new leases or modifications to existing lease agreements, through new construction contracts, or through contracts with commercial parking facilities.

6. Managers at field facilities are responsible for assigning parking spaces at their individual facilities in accordance with paragraph D above of this Parking Guidance. Facility managers at collocated facilities shall confer and agree on the allocation of parking spaces. Facility managers are also responsible for reporting on the adequacy of parking accommodations to their respective division managers and ensuring that electrical outlets for engine block heaters are installed only after coordination with appropriate offices in accordance with existing regional procedures.

7. RECOs are responsible for acquiring the required parking spaces at the lowest cost.

2.4.3 Appendix C: Rural Development Act Guidance Revised 4/2012

This section provides general guidance for the application of the Rural Development Act (RDA). In accordance with the Rural Development Act (RDA) of 1972 (P.L. 92-419, 86 Stat. 670, 7 U.S.C. Section 2661) and DOT Order 4320.1A (Location of New Federal Offices and Other Facilities in Rural Areas), the FAA must give first consideration to rural areas when locating new space, land, and other facilities (i.e. research and development facilities, warehouses, labs, clinics, etc.) unless mission or program requirements call for urban areas.

This guidance applies to all new and lease renewals for space and land acquisition as of January 2003. However, this guidance does not apply to unmanned and on-airport facilities such as VORTACS, RCAGS, GS, LOC, MALSR, etc.

Frequently Ask Questions:

1.) After giving first consideration to rural area, what should the RECO do?

- If rural area location is not selected, the RECO must document why not. For example the mission or programmatic requirements may require an urban location. Document the acquisition file to show the consideration given to rural options.
    - For example, the FAA can consolidate TRACON sites in either an urban or rural area. The mission of the program office is dependent on having fully operational functions for the TRACON site. Therefore, if a rural area does not meet functional needs, the RECO has adequate justification to locate in an urban location.
        - The decision to not consider rural area cannot be made arbitrarily. The acquisition file must document the consideration given to rural areas and provide the data that supports the decision to locate in an urban area. The RECO can fill out the Checklist for RDA and add this to the acquisition file, to meet the documentation requirement.

2.) How do you define rural area?

- As per Federal Register/Vol. 67, No. 240(Friday, December 13, 2002, pg 76820, final rules for the Real Property Policies Update - 41 CFR Parts 102-71, et al.) rural area means a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants, as specified in the Rural Development Act, as amended.

3.) Which should the RECO consider first the central business district (urban areas – Executive Order (EO) 12072 and EO 13006) requirement or the rural areas (RDA)?

- If an acquisition can be <u>either</u> urban or rural, then the rural location must be given <u>first</u> consideration. If the mission or programmatic requirements and the justification state that the space, land and/or other facility be located in an urban area, then rural areas would not be selected.
    - The acquisition file must document the consideration given to rural areas and provide the data that supports the decision to locate in an urban area.

4.) If the FAA is using General Services Administration (GSA) to acquire new space or other facilities, is the GSA required to follow the RDA?

- When using GSA to acquire new office space and other facilities, our requirement to GSA must be clear that first consideration should be given to the availability of GSA space, and second consideration to rural areas. However if a rural area is not selected, GSA is required to document the acquisition file stating the reason for not selecting a rural location.

2.4.4 Appendix D: Lease Terms **Revised 4/2012**

A. Firm-Term Lease Consideration

As provided in 49 U.S.C., Section 40110 (c)(1) [copy attached] the FAA has authority to lease an interest in real property for not more than 20 years, without regard to FAA annual appropriations. This means the FAA has authority to enter into "firm-term" leases without violating the Antideficiency Act. ***Note: In accordance with the provisions of 49 USC 40110(c)(1), the RECO may enter into a lease with a term of up to 20 years, regardless of whether appropriations sufficient to pay the rent for the entirety of the lease term have been obligated.***

However, this does not relieve FAA from obtaining necessary budget authority before proceeding with a "firm-term" lease. Generally budget authority must be obtained for the rent for the entire period covered by the firm term, even though the funds are only obligated one year at a time. See OMB Circular A-11, Appendix B, "Budgetary Treatment of Lease Purchases and Leases of Capital Assets" for further information on lease scoring requirements. FAA authority to lease real property does not allow lease terms in excess of 20 years, including all renewal options. For purposes of this guidance a firm-term lease is defined as the period or length of time the lease or portion thereof cannot be canceled without the approval of the lessor.

Each region/center will determine when and how this authority will be used within the limitations set forth below. In using this firm-term authority, FAA Order 2220.1, Legal Participation in Procurement and Contracting, or its replacement order, must be followed.

Caution must be exercised in implementing firm-term lease authority. A firm-term lease commits the FAA to future rental payments. The FAA must be willing to commit future annual appropriations for the term of occupancy. If funding is not committed, the FAA would be in default of the lease and subject to claims by the lessor. Funding is the responsibility of the using organization and must be understood up front. The using organization must consider the budgetary impact of firm term lease funding and score the lease for proper budget authority before issuing a requisition and certifying the funds for the first year's rent. See OMB Circular A-11, Appendix B, "Budgetary Treatment of Lease Purchases and Leases of Capital Assets" for further information on lease scoring requirements.

The cost or terms of the longer firm-term lease must be advantageous to the FAA as compared to a one-year lease with renewal options. Prior to executing a firm-term lease the real estate acquisition team should advise and provide the organization responsible for funding with an analysis of potential lease costs and/or savings. Also prior to executing the lease the real estate acquisition team should obtain a written statement that acknowledges the terms and funding requirements of the firm term lease, including future budget year requirements. This written funding statement will be maintained in the real estate lease file.

A firm-term lease shall not be entered into if, in the judgment of the RECO, there is any doubt about the long-term need of the user. The objective in leasing a facility is to obtain what is best not only for the user but also for the FAA. In some cases obtaining the lowest cost is not always the best, even though it is an important consideration**.**

Flexibility, especially in space leasing, needs to be part of the consideration for entering into a firm-term lease. As an example, if some cost savings would be realized with a 10-year firm-term

space lease versus a 5-year firm-term lease, then some thought must be given to the potential for change (i.e., mission or operational need) at this facility in years 6-10. In this situation, it may be more advantageous to the FAA to lease for 5 years firm with an option to renew for an additional 3-5 years firm. It should be remembered that in the past, if space was requested for 5 years (based upon projected need) the FAA could lease for 10 years, without adverse ramifications, because the lease had an option to renew each year.

There is no requirement to use firm-term authority. Firm-term leases are a tool in obtaining what is best for the FAA. If firm-term authority is used, the manner in which contract documents are written must be consistent. In establishing consistency Regions/Centers should consider establishing, at least for some interim period, an appropriate level of firm-term lease review above the RECO.

1.) Real Estate Firm-Term Considerations:

1) How long is the end user prepared to commit, in writing, to stay in this location? How comfortable does the real estate acquisition team feel about this time frame?

2) Does any savings or benefit obtained in a longer firm-term justify the potential risk to the FAA?

3) Can two shorter firm-term periods serve almost the same purpose as one longer?

Firm-term period?

4) Does the firm-term period selected provide the FAA with the appropriate flexibility?

5) Is the FAA offering a firm-term lease because of a true market need or because one offeror has requested a longer firm-term?

6) Will the firm-term period allow amortization of the cost of alterations or construction in the rental payments instead of making a lump-sum payment? (The majority of commercial rental rates include a square footage allowance for amortizing the cost of initial space alterations over a specified period.)

2.) Firm-term authority for space leases only:

Regions/Centers:

1-5 Years Firm-term

> Usual firm-term period. Most real estate markets can provide a competitive rental rate with 3 to 5 years firm. Consider using two or more 1-5 year firm periods instead of a longer initial firm-term period. *For example, 9 year lease, 3 years firm, with 2 renewal options of 3 years firm for each or 10-year lease, 5 years firm with renewal option for 5 years firm.*

6-10 Years Firm-term

May be needed for new lease construction. Typically 10 years firm is utilized when only lease construction will satisfy the FAA needs. Again, consider offering two shorter firm-term periods. as shown in the example above.

Regions/Centers with Headquarters Approval:

11-15 Years Firm-term Usual situation. The real estate market should clearly indicate that little or no competition would be obtained unless a firm-term of 11-15 years is offered. Should only use in unusual situations.

16-20 Years Firm-term Rarely used. Firm-terms of 16-20 years should only be used for very large (regional office building size, large towers, etc.) or costly blocks of space. Use of 20 years firm should be rare in the FAA and used only after careful consideration. Typically, used for a prospectus level project.

To insure that required prospectus packages and other legal requirements are appropriately considered, regional requests for firm-term leases that exceed 10 years require the review and concurrence of the Real Property Planning, Policy and Budget Division ALO-200. However, all FAA leasing actions in Headquarters organizations in Washington D.C. must be coordinated through the Real Property Planning, Policy and Budget Division ALO-200, in order to insure that all relevant planning and policy issues are taken into consideration prior to using this authority. All requests shall be sent through channels to the attention of the Real Property Planning, Policy and Budget Division ALO-200. The requests should be no more than 2 pages (exclusive of any transmittal memo or other attachments) and include the following:

- Current location, square feet, annual lease costs, including any services or unusual features.
- Proposed location or area, square feet, estimated annual lease costs, including any services or unusual features and explanation of how competition will be obtained.
- Justification of the need to exceed 10 years firm and how will it benefit the FAA.
- Any additional relevant facts.
- Attach a memo signed by the customer indicating their intent to remain for the firm-term period requested.
- A signature and date line at the bottom of the transmittal memo for concurrence by the Real Property Planning, Policy and Budget Division ALO-200

B. Other Lease Considerations:

To provide some protection to the FAA, the lease should include a clause allowing the FAA to sublease the premises in whole or in part. Additionally, the lease should allow the FAA rights to alter the premises to suit a new tenant.

C. Examples Of Clauses For Space Lease Documents:

15 year lease, 5 years firm, with termination after 5th year.

"To have and hold the said premises with their appurtenances for the term beginning on January 1, 1990, *through* December 31, 2005, *inclusive; subject to termination and renewal rights as may be hereinafter set forth. The Government has the right to terminate this lease on 120 days notice on or after* December 31, 1995"

15 year lease, 5 years firm, with termination after 5th year <u>OR</u> renewal for 3 years firm with termination after 5th year.

"*To have and hold the said premises with their appurtenances for the term beginning on* January 1, 1990, *through* December 31, 2005, *inclusive; subject to termination and renewal rights as may be hereinafter set forth. The Government has the right to terminate this lease on* December 31, 1995, *with 90 days notice. In the event the Government elects not to terminate this lease on* December 31, 1995, *the Government may terminate this lease on 90 days notice on or after* December 31, 1998"

2.4.5 Appendix E: Rent-Free Guidance Revised 4/2014

Since Fiscal Year 2001, Congress has inserted a provision in FAA's Annual Appropriations Acts that limits dramatically FAA's ability to obtain no-cost space on Sponsor-Owned Airports. That provision states as follows:

FAA Appropriation: None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation or weather reporting. The prohibition of funds in this section does not apply to negotiations between the Agency and airport sponsors to achieve agreement on ``below-market'' rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for ATC facilities.

1. What does this mean for the FAA?

The appropriations provision states that the FAA is not allowed to expend appropriated funds, e.g. salaries, travel expenses; etc., to implement the requirement that Airport Sponsors provide no-cost space in sponsored-owned buildings on airport. However, FAA may expend appropriated funds to negotiate and to secure space at below-market rents from Airport Sponsors. In addition, nothing in the Act prohibits an airport sponsor from providing rent-free space for any new leases or renewal leases if done so voluntarily and as a condition for receiving an Airport Improvement Program (AIP) Grant B. None of the above is needed, and it doesn't read very well.

2. Does the language apply to both old lease renewals and new lease negotiations?

This language applies to all existing lease renewals and new leases after October 1, 2000.

2.4.6 Appendix F: Short-term Conference and Meeting Space Revised 4/2012

Conference or meeting space requirements may range from the rental of a room for a one-day

meeting or training session to a large conference of several days. As in all procurements of commercial space the requiring organization must first seek the availability of Government-owned or controlled space. The FAA is required to make inquiries regarding the availability of Government-controlled space to GSA regional offices and to document such inquiries.

The selection of commercial meeting space may be based on a location, which provides the most advantageous solution to the FAA's needs. Procedurally, the organization requiring meeting or conference space must first check on the availability of Government or FAA controlled space with the Office of Regions and Center Building Services office, or the Technical Center Facilities Management Office, or the Aeronautical Facilities Management office, or the Washington Area Facilities Management office to determine local procedures and restrictions. If GSA controlled space or other Government or FAA controlled space is not available, the requiring organization may initiate a request in accordance with local procedures. A vendor/hotel may be contacted to acquire an estimated cost; however, no commitments are authorized until approved by one of the above offices. Upon receipt of authorization to procure the commercial meeting space, you may proceed in accordance with federal and local procedures as provided by one of the above offices. Any contractual agreements between FAA and vendor/hotel should be reviewed and approved by warranted contracting officer and legal office.

If the cost of the conference space is within the limits of cardholders purchasing authority, see AMS Section 3.2.2.5. If the cost of the space exceeds the limits of a cardholder you should check with the appropriate Acquisition Office/Group located in one of the above offices to determine local procedures. The space should not be utilized or occupied until an authorized person with procurement authority has approved the transaction and finalized the agreement.

2.4.7 Appendix G: Security Revised 4/2012

The FAA will comply with FAA Orders: 1) 1600.69, Facility Security Management Program, and 2) 1600.72A, Contractor and Industrial Security Program, and 3) 1600.73, Contractor and Industrial Security Program Operating Procedures. These FAA Orders establishes standards, procedures and techniques for the protection of FAA employees, agency personal property, and security of the FAA facilities (leased or owned), contractors, and the public. Under these FAA Orders mentioned above, the FAA reserves the right to restrict access to FAA facilities.

1. The RECOs should seek consultation support from the local Servicing Security Element (SSE) for security issues for all new, succeeding or renewal lease location. The SSE contacts in the Region are as follows: AXX-710's, AMS-700, and AWA AIN-100.

2. During the Pre-Award process, the RECO needs to work with the SSE in meeting the end users requirements. Below are the processes to be followed and the services to be provided by the SSE to the RECOs for all new or existing locations.

- Schedule a meeting between the end user, i.e. the Line of Business (LOB), the RECO and the SSE. If the end user is moving to a new location the RECO should work with the SSE as soon as they learn the end user is moving.
    - During the meeting the RECO, the end user and the SSE should discuss the following:

- Review the end user security planning and budgeting.
- Review the solicitation for offers (SFO) security requirements (Facility and Personnel) and provide additional requirements as needed.
- The SSE should provide the baseline Facility Security protective measures, which match the security level with the facility. This is an opportunity for the SSE to ask questions to the RECO or the end user to assist in the determination of the security requirements for the SFO by determining the security level. Below are the types of questions that may be asked by the SSE.
    - What is the physical address location(s) [if known such as a renewal lease] of the prospective lease sites?
    - What types of FAA work functions will the leased space accommodate/perform?
    - How many FAA personnel will there be at the facility? What will be the maximum/peak number of FAA personnel at the facility at shift change?
    - Will this be a 24/7 facility?
    - How many parking spaces required?
    - Are there any other government tenants at the facility being considered? If so, would any of them be considered "high risk"? The RECO can check with the SSE to determine the "high risk" status of the other federal tenants.
    - Is this is an ATC facility? What is the ATC facility level rating?
    - If this is an ATC facility will there be a requirement for a childcare, credit union, or other services offered by the FAA at the facility?

- Provide security consultation during the market survey when required.
- Provide, review, and comment of lessors proposal of security requirements to include examination of lessors recommended alternatives and/or plans.
- Provide support to facility manager in formulating requests for exception to security policy prior to lease award. (Formal FAA memorandum to AIN-100)
- Provide security technical support to the RECO if required during negotiations and evaluations if security is considered evaluation criteria.
- Provide support to RECO during the space acceptance from the lessor by reviewing lessors drawings to ensure that the security requirements in the SIR/SFO were met.

3. The SSE can provide the following services after the lease award:

- Provide recommendations to facility manager when the Security Order is not met and examination of lessor's recommended alternatives to meet the FAA Order.
- Conducts facility security assessment after occupancy, which will confirm the lessor is meeting security requirements per the lease. The RECO will provide the SSE with Lessor plans and drawings to assist with the assessment.

4. Contractor and Industrial Security Facility Program for Leased Facilities (Revised 10/2003) FAA reserves the right to restrict access to FAA facilities. Depending on the terms of the lease agreement, any person or individual employed or hired by the lessor, or requiring access to perform work or provide services in or upon the leased premises may receive the same level of security investigation requirements as do FAA employees as determined by the FAA personnel

security specialists.

There is a sequential process by which suitability and security determinations must be completed before any person(s) or individual(s) employed or to be hired by the lessor can perform work or provide services under the terms of the lease agreement. Each step is essential to the process and must be conducted in a specific sequence in order for the process as a whole to succeed. The RECO must be familiar with the process prior to initiating negotiations with the prospective lessor. It is also essential that the RECO work closely with the FAA SSE and the operating office or the LOB tenant organization so that the best interests of the Government and the FAA are protected. The primary role of the RECO is to ensure that the security investigative program in leased facilities is established between the lessor and the FAA. Establishing a Contracting Officer Representative (COR) to assist with monitoring and maintaining the security requirements for leased space should be considered. Establishing a Trusted Agent in locations where the SSE is not available to assist with monitoring and maintaining the security requirements for leased space will be required.

Individuals employed or to be hired by the lessor to perform work or provide services in leased space typically fall in low-risk positions. These positions may include janitorial, construction, maintenance, property management, and repair workers. It may also include delivery personnel and repair technicians. The first step in the investigative process is for the operating office or LOB tenant organization to assess the level of access that may be required by the various positions to provide the services specified by the lease. This requires the completion of FAA Form 1600-77, Contractor Position Risk/Sensitivity Level Designation Record [see Order 1600.73 for each type position]. The RECO should assist as needed in completion of the 1600-77 by the LOB tenant organization for submission to the FAA SSE. The SSE will determine the risk level and possible exemptions for each type of position and advise the RECO and the LOB.

During negotiations and prior to lease award the RECO needs to ensure that the lessor understands the requirement for the security investigations and takes time to review the prescribed lease clauses and lease performance expectations. The types of positions required to meet the terms of the lease should be confirmed with the lessor during negotiations.

The prescribed standard clause, V. Section E –Security Requirements (December 2006), Security Screening of Persons or Individuals Employed or Hired by Lessor/Contractor (April 2003), Attachment A, used in all new leases where the lessor, or person(s) and individual(s) employed or hired by the lessor will perform work or provide services in or upon the premises leased by the Government.

The RECO will coordinate with the FAA SSE to obtain the following personnel security information forms for non-exempt positions:

a. FD-258, FBI Fingerprint Card. Fingerprints will be taken by those individuals who have been identified, as either a Trusted Agent or a Personal Identity Verification (PIV) Registrar (SSE).

b. SF 85P, Questionnaire for Public Trust Position, as designated by the FAA Form 1600-77.

c. DOT Form 1681, Card/Credential Application, needed to obtain PIV card.

d. Form I-9, Employment Eligibility Verification. In locations where the contractor employee cannot go to the FAA SSE office, a Trusted Agent will have to be appointed to perform the duties of the SSE's Registrar. The Trusted Agent needs to be someone on location and can be an FAA or contractor employee. The Trusted Agent will also go through the background suitability investigation process. The purpose of the Trusted Agent position is to verify the applicant's identity with two forms of identification that are listed on the I-9 Form and to take fingerprints when needed.

The RECO will send the forms to the lessor with instructions that they are to be completed by each employee within five (5) business days, not to exceed a maximum of 30 days after acceptance and execution of the lease or modification. The completed forms are to be returned to the FAA SSE or the Trusted Agent, and then sent in a sealed envelope containing a memorandum identifying the name of the lessor, address and FAA lease contract number of the premises leased, and list the full names (alphabetically), social security numbers, date and place of birth (city, state or country), and position title of all person(s) or individual(s) employed or to be hired by the lessor to perform work or provide services in or upon the leased premises for both exempted and non-exempted positions. The contractor employees will be required to take pictures (passport photo-type) or send them in jpeg format to the SSE. The employee(s) will also have the registrar or Trusted Agent verify their identity and complete their portion of the I-9 Form, and take their fingerprints. Non-exempt positions will require some or all of the forms above for investigative screening by the FAA SSE. The operating office or LOB tenant organization occupying the FAA leased premises will be responsible for funding the costs for security screenings for all persons or individuals employed or hired by the lessor, with the exception of fingerprinting. The lessor will be responsible for all expenses associated with fingerprinting any person(s) or individual(s) employed or to be hired by the lessor.

The FAA SSE must conduct the security screening investigation for those persons and individuals identified and employed by the lessor. The FAA SSE will notify the lessor (through the designated Government representative) of any individuals determined to be unsuitable for access to the leased premises. The lessor will be required to immediately remove any unsuitable persons or individuals from the leased premises and not permit the individual to perform any work or provide any services under the terms of the lease.

The FAA shall request, upon lease award or contract modification, the lessor to provide the required information prior to FAA occupying the leased premises. The lessor will be directed to notify within five (5) business days, the designated FAA representative of any persons or individuals newly hired or currently employed during the term of the lease. Newly hired persons or individuals currently employed by the Lessor must be escorted at all times until background investigations are completed.

The FAA SSE has determine if any person or individual employed or hired by the lessor is exempted from the investigative screening that person shall be escorted at all times in or upon the leased premises by FAA personnel located on-site or by an individual or person employed or hired by the lessor, who has been properly investigated, favorably adjudicated, and authorized to escort exempted individuals. The escort must keep the escort-required contractor employees or other persons in plain view at all times. The lessor shall provide to the designated Government

representative the full names (alphabetically), social security numbers, and date and place of birth (city, state or country) of all exempted personnel to be escorted while performing work or services in or upon the leased premises.

Foreign Nationals: All persons or individuals employed or to be hired by the lessor to perform work or provide services in or upon the leased premises shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form I-151, or who presents other evidence from the United States Immigration and Naturalization Service that employment will not affect his/her immigration status. Aliens and foreign nationals who perform work or provide services under the terms of the lease must meet the following conditions in accordance with FAA Order 1600.72A, chapter 5, paragraph 7 & 8.

a. Must have resided within the United States for three (3) years of the last five (5) years unless a waiver of this requirement is requested and approved in accordance with the requirements stated in FAA Order 1600.72A, chapter 5, paragraph 9;

b. A risk or sensitivity level designation has been completed for the position; and

c. The appropriate security screening has been conducted.

Interim suitability requirements may not be applied unless the position is low/moderate in risk, and/or temporary, and/or is not in a critical area position.

The standard clause and alternate clause prescriptions include language for aliens and foreign nationals employed or hired by the lessor.

The lessor will have an ongoing requirement to advise the RECO, or the designated Government representative, of changes to the lessor/contractor list. The contractor must notify CO within one (1) business day after an employee has been terminated from the contract. The contractors are also responsible for immediately notifying the SSE if a Contractor employee is arrested for any reason other than minor traffic offenses. Quarterly/bi-annual reports to the CO and SSE are required on or before the 5th business day following each reporting period. These listings must include a complete alphabetical listing of current employees working on the contract, and a separate list of terminated employees. The RECO must coordinate with the SSE, the LOB tenant and the lessor on an ongoing basis. The RECO should, whenever possible, delegate day to day management of the contractor security program at a leased facility to a responsible on-site representative.

When others contract for services (e.g., janitorial, construction, maintenance, etc) separately for FAA leased premises, personnel security investigations shall also be conducted. It is the responsibility of the CO for that service contract to coordinate with the SSE and LOB tenant organization regarding contractor screenings. In accordance with FAA Order 1600.72, paragraph 204, the operating office or LOB tenant organization occupying the FAA-leased space will be responsible for funding the costs for security screenings for all person or individuals employed or hired by the lessor.

If FAA occupies GSA controlled leased space, the designated FAA representative will request

GSA to include the prescribed FAA security clause in the GSA lease requirements. GSA will be responsible for conducting the security investigations on any person or individual employed or hired by the GSA lessor to perform work or provide services in or upon premises occupied by FAA personnel. Funding for security screenings in GSA controlled space are covered under the GSA rental costs, unless FAA requires a higher level of security than the standard established by the GSA Building Security Committee, or if current FAA occupancy agreements with GSA require something different than the standard established.

Sensitive Unclassified Information (SUI) must be restricted to specific contractors who: have a "need to know" to perform contract tasks, meet personnel suitability requirements to access sensitive information, and successfully complete a non-disclosure agreement (NDA). The contractor must develop and implement procedures to ensure that sensitive information is handled within accordance with FAA requirements and at a minimum, must address

a. Steps to minimize risk of access by unauthorized persons during business and non-business hours to include storage capability.

b. Procedures for safeguarding during electronic transmission (voice, data, fax) mailing or hand carrying.

c. Procedures for protecting against co-mingling of information with general contractor data system/files.

d. Procedures for marking documents with both the protective marking and the distribution limitation statement as needed.

e. Procedures for the reproduction of subject material.

f. Procedures for reporting unauthorized access.

g. Procedures for the destruction and/or sanitation of such material.

Government Issued Keys, Personal Identity Verification (PIV) cards, and Vehicle Decals may be issue to contractor employees. Prior to or upon completion/termination of work the contractor must return all Government issued items to the issuing office. When employees are terminated or are no longer required the work, the Government issued items must be returned to the Government within three (3) business days or upon termination of the contract or employee. Improper use, possession, or altercation of FAA issued keys, PIV cards and/or vehicle decals is subject to penalties under Title 18, USC 499, 506, and 701.

In the event that the Government-Issued items are not returned the contractors understands and agrees that the Government may, in addition to any other withholding provision of the contract with hold [CO to enter appropriate amount] for each key, PIV card, and vehicle decal not returned. If such items are not returned within 30 calendar days from the date the withholding action was initiated, any amount withheld must be forfeited by the contractor.

2.4.8 Appendix H: Seismic Revised 10/2014

Buildings, or space, acquired for the FAA or constructed on FAA property must meet current seismic safety requirements as provided in E.O. 12699, E.O. 12941 & P.L. 101-614.

The standard for seismic safety in Federally Owned or Leased Buildings is found in National Institute of Standards and Technology (NIST) RP-8, Standards for Seismic Safety for Existing Federally Owned or Leased Buildings, December 2011. RP-8 requires a "Seismic Safety Certification" to be executed by a qualified structural engineer prior to signing any new lease or renewing existing leases. The requirements for the Seismic Safety Certification are found in RP8. In addition, Section 1.3 of RP-8 lists a number of *exemptions* and one *exception* that may relieve the Agency of the Seismic Safety Certification. Any exemption or exception **must** be applied on a case-by-case basis.

Guidance on compliance requirements for leased space or buildings is set forth below.

The FAA is required to implement a program to mitigate seismic hazards in buildings occupied by FAA. It is FAA's policy to ensure the safety of its employees. Accordingly, every effort should be made in the space acquisition process to ensure that FAA employees are housed in seismically safe buildings. In this regard, and to the extent practicable, any new leases or succeeding leases in existing locations are to be for space in buildings that comply with seismic standards.

There are several levels of seismic performance. For leasing purposes, RP-8 requires that, at a minimum, all buildings and space occupied by FAA personnel must meet the "Life-Safety" performance objective. A RECO may request a higher seismic performance objective if LOB requirements dictate a need for a performance objective higher than "Life Safety." The other performance objectives are "Immediate Occupancy," which requires that a building be constructed so that it could sustain a level of damage during a seismic event that is sufficiently minimal that employees could re-enter the building immediately after a post-event inspection, and "Continuous Performance", which requires that a building be constructed so that no damage would occur during a seismic event , and that, consequently, employees would not be required to leave their duty stations during or after a seismic event.

Leased Facilities

A licensed structural engineer hired by the Lessor **must** certify on the Life Safety Compliance/Seismic Certification (Form 2.6.4) the level of seismic compliance. The structural engineer's certification is to be kept in the lease contract file. An alternate document such as a letter from the Lessor stating the building meets the seismic compliance does not take the place of the required certification form.

Life Safety Compliance/Seismic Certifications do not expire. If the building owner provided a signed certification for the building under a previous lease, it is still valid. The RECO is to ensure the original signed certification is placed in any succeeding lease file and a copy kept in the previous lease file.

The RP-8 Standards shall apply to all or portions of a building leased by the FAA, unless an

exemption or exception applies under the provisions of RP-8.

Section 1.3 of RP-8 provides several exemptions and one exception to the standard. Below are examples of the exemptions and exception, which cite the applicable RP-8 section.

Exemptions (RP-8 Section 1.3)

The following are common exemptions from the RP-8 standard:

- The building is in a low seismic risk zone (SDS<0.33g and SD1<0.133g) as shown in the green areas on the map from the U.S. Geological Survey dated May 2012. (Attachment to Form 2.6.4.1)
- The total area in the building leased by the Federal Government is less than 10,000 sq. ft. and is located in the yellow area as shown on the map from the U.S. Geological Survey dated May 2012. (Attachment for Form 2.6.4.)
- The remaining useful life of the building or the agency's requirement for the building is less than five years (short term lease).
- The building is one story, constructed of a light steel frame or wood, and is less than 3,000 sq. ft.
- FAA's use of the building is intended only for incidental human occupancy of less than 2 hours per day.

If a building selected for lease award meets one of the exemptions above, the RECO is to fill out and sign Exemption/Exception from Seismic Compliance (Form 2.6.4.1) and place it in the lease file.

Benchmark Buildings (RP-8 Section 1.3.1): Some buildings may qualify as benchmark buildings, designed or retrofitted with seismic provisions deemed suitable at the time of construction or renovation, and thus could be deemed to meet minimum seismic requirements. The application of the RP-8 standard for benchmark buildings is very complex and requires technical expertise to interpret. The Lessor must provide a Life Safety Compliance/Seismic Certification (Form 2.6.4), signed by a Structural Engineer, if claiming benchmark building status.

Best Available Leased Building Exception (RP-8 Section 1.3.2): If no seismically conforming space is available, otherwise acceptable space with the best seismic resistance shall be pursued.

The distinction between an exemption and an exception is that an exemption allows a presumption to be made that the building is life safe based on research by the Government and industry. Use of the best available space exception does not allow a presumption of life safety. It indicates acceptance of the reality that the Agency cannot perform its mission without occupying that particular space.

The LOB manager may choose to modify the space requirements or expand the delineated area to allow for more space options that could meet the minimum seismic requirements, or the LOB may choose to expend Agency funds to have the space evaluated by a Licensed Structural Engineer for life safety according to the requirements of RP-8.

The term of any lease under this exception should be limited to that time necessary for the tenant LOB to budget for and fund relocation to compliant space.

The decision to use the best available space exception must be made in writing and concurrence obtained by the Line of Business (LOB) that occupies or will occupy the space. RECO is to use Exemption/Exception to Seismic Compliance (Form 2.6.4.1) to document the lease file.

Privately Owned Buildings on Federal Land (RP-8 Section 1.3.3): The Standards shall be applied to all privately owned buildings located on Federal land. Application of the Standards to evaluate and rehabilitate buildings for seismic risks shall be the responsibility of the building owner. The RECO must include the seismic lease clauses in any outgrant agreement or other agreement that allows the privately owned building to be located on FAA property to ensure the structure complies with the Standard.

Lease Clauses

Unless one of the exemptions or the best available exception applies to the space, the RECO is to insert the seismic safety clauses, 7AA "SEISMIC SAFETY FOR EXISTING BUILDINGS, and 7AB, SEISMIC SAFETY FOR NEW CONSTRUCTION into all new and succeeding space leases, as well as to the construction of new buildings to be leased by the FAA, and to any outgrant license, permit, or other such agreement that may allow for the placement of a privately owned building on FAA or other federal property.

The seismic safety clause(s) are not be inserted in the lease if one of the exemptions or the best available exception applies to the space.

2.4.9 Appendix I: Accessibility Revised 4/2012

Architectural Barriers Act Accessibility Standard (ABAAS) Guidance

I. Architectural Barriers Act Accessibility Standard (ABAAS)- Background On November 8, 2005 the Federal Register included a section from the General Services Administration amending 41 CFR Parts 102–71, 102–72, et al; Federal Management Regulation; Real Property Policies Update; Final Rule. Subpart C of this amendment pertains to the Architectural Barriers Act, and states that GSA has adopted the ADA / ABA Guidelines (Part II ABA Application and Scoping and Part III Technical Chapters) issued by the Access Board on July 23, 2004 as the Architectural Barriers Act

Accessibility Standard (ABAAS) as the accessibility standard for all Federal facilities (See Q&A section for additional information on using the Guidelines as the Standard). Copies can be ordered from the Access Board or electronic copies are available on the Access Board website (www.access-board.gov). ABAAS replaces the Uniform Federal Accessibility Standards (UFAS) as the accessibility standard for federal facilities.

II. Applicability
This guidance applies to all FAA leased, owned, and GSA controlled facilities.

A. To all FAA Owned, Leased, or GSA controlled leased facilities

All FAA leases awarded prior to February 6, 2007 will continue to use the UFAS. ABAAS requirements will be included in all leases solicited, renewed, or otherwise entered into after February 6, 2007. In addition, any 41 CFR Parts 102-71, 102-72 alterations or improvements to FAA leased space made, or contracted for, after February 6, 2007 must be ABAAS compliant.

Facilities for which leases are entered into must comply with F202.6 of the Architectural Barriers Act Accessibility Standard, without regard to whether the costs of alterations to comply with F202.6 are disproportionate to the costs of the overall alterations. The FAA is required to provide an "accessible route of travel" for leased space. This includes at a minimum: (a) An accessible route and an accessible entrance; (b) At least one accessible restroom for each sex or a single unisex restroom; (c) Accessible telephones; (d) Accessible drinking fountains; and (e) Accessible parking spaces. In complying with ABAAS, the entire leased area should be considered as being required to be fully accessible unless limited by the ABAAS Scoping (Chapter F2) requirements, which are included below.

Areas of Primary Function

For FAA leases, an "area of primary function" would be the entire facility, except for the following. Note: For purposes of ABAAS compliance, an Area of Primary Function is defined as follows: A primary function area is an area that contains a major activity for which the facility is intended. Primary function areas include areas where services are provided to customers or the public, and offices and other work areas in which the activities of the Federal agency using the facility are carried out.) The "Area of Primary Function" concept is more fully explained in the Question and Answer Section.

Exceptions for Leased Space

1. Elements in compliance with an earlier standard issued pursuant to the Architectural Barriers Act or Section 504 of the Rehabilitation Act of 1973;
2. In air traffic control towers, an accessible route shall not be required to serve the cab and the floor immediately below the cab;
3. Limited Access Spaces. Spaces accessed only by ladders, catwalks, crawl spaces, or very narrow passageways;
4. Spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment (Machinery Spaces);
5. Where a two story building or facility that has one story with an occupant load of five or fewer persons that does not contain public use space, that story shall not be required to be connected to the story above or below;
6. Structures and equipment directly associated with the actual processes of construction;
7. Alterations to Qualified Historic Buildings and Facilities (limited exceptions);
8. Buildings or facilities leased for 12 months or less provided that the lease may not be extended or renewed;
9. Buildings or facilities leased for use by officials servicing disasters on a temporary, emergency basis; and
10. Alterations and additions in multi-tenanted building (non-FAA exclusive use) to joint use areas serving the leased space shall not be required to comply with F202.2, F202.3, and F202.5 provided that the alterations are not undertaken by or on behalf of the Federal government.

B. ABAAS Standard Reporting

All new and renewal leases entered into after February 6, 2007 are required to meet ABAAS; however, If the Lessor certifies that it is not compliant, lessor is required to bring the facilities into compliance within a reasonable date (i.e., not to exceed a year from the date of award of the lease). With some exceptions, design and new construction begun after May 8, 2006 are required to meet ABAAS. (Note: Per F203.2 Existing Elements, Elements (An Element is defined in ABAAS as "An architectural or mechanical component of a building, facility, space, or site") in compliance with an earlier standard issued pursuant to the Architectural Barriers Act or Section 504 of the Rehabilitation Act of 1973, as amended, shall not be required to comply with these requirements unless altered.);

C. Required Documentation

The RECO must approve the completed the "ABAAS Compliance Report" and place in lease contract file for all space leases entered into after February 6, 2007. Documentation is also required on each contract, grant or loan for the design, construction or alteration of a facility to ensure that the facility complies with ABAAS.

This documentation must include the following:

Lessor must certify the property is or will be made compliant with ABAAS by a specified date.

The "ABAAS Compliance Report" is attached to the lease and placed in the file for record purposes.

If the lessor has certified that the space will be compliant by a certain date, the Real Estate Contracting Officer must ensure the space has been made compliant through inspection and certification by the FAA facility manager, or designee, or a site visit. If the lessor fails to meet the standard, a cure notice is sent, and if the Lessor fails to cure the facility to meet ABAAS requirements, then the FAA will fix (under the "Changes" Clause or "Alterations" Clause) the subject facility to meet the ABAAS standard and reduce the rent in an amount equal to the cost of the alterations paid by the FAA.

III. ABAAS Waiver

No FAA employee is authorized to waive or modify ABAAS. If the FAA requires a waiver or modification to the ABAAS, the process should be coordinated through the Access Board.

Waiver determinations will be made on a case-by-case basis; the GSA "Administrator determines if the waiver or modification is clearly necessary." Additional information is available in the Question and Answer section. Cost is generally not a valid reason for a waiver.

IV. Questions and Answers

a.) When does the Architectural Barriers Act Accessibility Standard (ABAAS) become effective? As of May 8, 2006 ABAAS became the standard for construction, alterations, and modernizations, unless design was complete or substantially complete on that date. If design was complete or substantially complete, then UFAS is allowed if the construction starts by May 8, 2008. The ABAAS is effective for leases entered into on or after February 6, 2007.

b.) *How do the ADA and ABA* standards relate to each other within the Guidelines / Standard?

The diagram shows the ADA Scoping and ABA Scoping both connecting with the Technical Chapters but not intersecting. This is to illustrate that the ABA Scoping (applies to FAA as a federal entity, adopted by GSA), chapters F1 and F2, are joined to the Technical chapters (applies to FAA as a federal entity, adopted by GSA) but separate from ADA.

The Scoping section explains the definitions and requirements. The Technical Chapters explain how the requirement from the Scoping Section is implemented. By way of example: To determine if parking is required to be accessible, you would determine from sections F201 - Application and F202 - Existing Buildings and Facilities- if the parking is new or existing and which compliance or exceptions apply. Then refer to section F208 to find how many parking spaces and which types are required to comply. Once the number of compliant spaces required is determined, refer to Technical Chapter 502 - Parking Spaces- to determine the technical requirements. In summary, review the Scoping Section to determine how many, and the Technical to review how to, fulfill ABAAS requirements.

The ADA Scoping section applies to State and Local governments and private industry. It does not apply to the federal government.

c.) *If the space is UFAS compliant, do I have to change it to meet ABAAS?*

The answer is “No” and “Yes”.

In complying with ABAAS, review the Scoping Section. With respect to Existing Elements, Section F203.2 - General Exceptions, states that “Elements in compliance with an earlier standard issued pursuant to the Architectural Barriers Act or Section 504 of the Rehabilitation Act of 1973, as amended shall not be required to comply with these requirements unless altered."

In other words, if the facility meets UFAS, then it complies with ABAAS.

The second part of that provision means that elements altered to provide "Program Access" per section 504 of the Rehabilitation Act, or to provide an individual "Reasonable Accommodation" per sections 501 and 504 of the Rehabilitation Act do not have to meet ABAAS, as long as the modification is needed to meet an individual accommodation. When the individual accommodation is no longer required, the element is required to be modified to meet ABAAS.

The last part of the statement means that if a UFAS compliant element or area is altered, then the altered or modified element or area must meet ABAAS.

d.) *What does “enter into” mean?*

When both parties sign a new lease or renew an existing lease. When “exercising an option” to extend a lease you are not creating a new lease as long as you are only extending the term of the lease , and are not changing or revising any other terms of the lease. In those instances, UFAS compliance is sufficient.

e.) If a facility (leased or new construction/alteration) will be altered to meet the standards, will a schedule and budget be required as part of the file documentation?

Yes. The lessor will develop the schedule and budget for lessor-completed alterations. FAA will develop the schedule and budget for FAA alterations.

f.) What are disproportionate costs (20% Rule)?

If an alteration to an FAA owned facility requires the FAA to provide an accessible path of travel, the cost would be disproportionate if it exceeds the cost of the alteration or addition by 20%. If a series of small construction projects were completed, then the calculation consists of the total costs of all of such projects over a three-year period.

For leases entered into after February 6, 2007 there is no disproportionate cost clause. The leased facility must be ABAAS compliant (see Required Documentation question), without regard to whether the costs of alterations completed to bring the facility in compliance with F202.6 are disproportionate to the costs of the overall alterations.

g.) What are the new documentation (certification) requirements for compliance with ABAAS?

The head of each Federal agency must ensure that documentation is maintained on each contract, grant or loan for the design, construction or alteration of a facility and on each lease for a facility subject to ABAAS. The documentation will contain one of the following statements:

(1) The standards have been or will be incorporated in the design, the construction or the alteration.

(2) The grant or loan has been or will be made subject to a requirement that the standards will be incorporated in the design, the construction or the alteration.

(3) The leased facility meets the standards, or has been or will be altered to meet the standards.

(4) The standards have been waived or modified by the Administrator of General Services and a copy of the waiver or modification is included with the statement.

h.) What is an area of "primary function"?

Per F202.4, an area of "primary function" is (a) n area of a building or facility containing a major activity for which the building or facility is intended". There can be multiple areas containing a primary function in a single building. Primary function areas are not limited to public use areas. For example, both a bank lobby and the bank's employee areas such as the teller areas and walk-in safe are primary function areas. Also, mixed-use facilities may include numerous primary function areas for each use. Areas containing a primary function do not include: mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors, or restrooms."

i.) How can we get a waiver from ABAAS and who can authorize it?

No one in the FAA can waive ABAAS requirements. The Administrator must request a waiver from the GSA Administrator. Only the GSA Administrator can waive ABAAS requirements. The waiver should be processed through the Access Board.

Waiver determinations will be made on a case-by-case basis; the GSA "Administrator determines if the waiver or modification is clearly necessary."

The FAA would be required to show that there is a compelling justification for a waiver to be approved. A waiver will not be granted if complying with ABAAS is inconvenient or if ABAAS compliance was not incorporated in the design or construction process. Generally project cost or budget shortfalls are generally not considered a basis for a waiver.

j.) What happens if we are in the negotiation process and February 6, 2007 passes? If you are in the negotiation process you will need to go back and amend the SIR to include ABAAS and reopen the process. For new leases you should include provisions in the SIR and provide notification to prospective offerors/respondents about ABAAS when the SIR is issued.

k.) Since there is no dollar limit on required ABAAS renovations for leases entered into after February 6, 2007, what options do we have if the lessor cannot make the retrofits due to cost?

This is resolved on a case-by-case basis. The FAA can:

1. Negotiate to spread the costs out or pay a lump sum;
2. Make the changes and withhold rental payments for that amount;
3. Make the changes (zero or one dollar leases);
4. Commence Condemnation proceedings;
5. Relocate;
6. Consider using the waiver process (waivers are generally not given on a cost basis only).

In addition, the FAA does have statutory authority to improve leased space in certain situations. If the lessor is unwilling or unable to complete the improvements, then the FAA can utilize its authority under 49 USC Section 44502(a)(5) to renovate the leased space.

The FAA cannot spend money that it doesn't have, so we need to subject any action to the availability of appropriations. The RECO should also check with regional or headquarters counsel on any question of authority to make alterations or improvements to a leased facility. In addition, the FAA does have statutory authority to improve leased space in certain situations. If the lessor is unwilling or unable to complete the improvements, then the FAA can utilize its authority under 49 USC Section 44502(a)(5) to renovate the leased space.

l.) How does a RECO determine what needs to be done to bring a facility into compliance with ABAAS?

The lessor is required to state whether the leased facility is compliant with ABAAS or will be made compliant. If the facility will be made compliant, then a schedule of the work required should be provided and the FAA facility manager or designee can verify if the work is complete and report the status to the RECO. If there are additional questions, contact the Regional Accessibility Focal Points from Technical Operations or Logistics, who are the

regional SME's or the national Facility Accessibility Program Office is available for additional information.

m.) How is the information forwarded to the Administrator for reporting to GSA?

When GSA requests the information from the FAA, the appropriate office will provide the reporting format. Since lessors entering into leases with FAA after February 6, 2007 are required to complete the "ABAAS Compliance Report" as to the compliance status, this requirement can be met by reviewing the lease files.

n.) Who will maintain the documentation?

The RECO must include the "ABAAS Compliance Report" in all space lease files after 9/1/06.

o.) Who pays to bring a leased facility into ABAAS compliance?

If the facility is ADA compliant, the FAA will have to fund the upgrades from ADA to ABAAS. If the facility is not ADA compliant, the lessor is required to pay the costs of making the space ADA compliant, and the FAA would pay for ABAAS compliance. Remember, if an element or area is UFAS compliant it complies with ABAAS.

2.4.10 Appendix J: Outgrant **Revised 4/2015**

Outgrants, formerly known as outleases, are used when there is a secondary need for unused unutilized or underutilized FAA leased/owned land or space by either another government entity or third party and such use does not interfere with current or known future FAA needs for the property.

Maximum Term: Starting October 1, 2014, outgrants, new or succeeding, are not to exceed a 5-year term. If the FAA does not own the underlying land or building/structure, but is leasing it from someone else, the term of the outgrant cannot exceed the term of the underlying FAA contract or 5 years, whichever is less. Unexercised options are not to be included when calculating the remaining term of the underlying contract. For instance, if FAA is leasing land for a Very High Frequency Omni-directional Range (VOR) and the underlying lease has 3 years remaining on the original term and one unexercised 5 year option, the maximum term for any outgrant shall not exceed 3 years.

Cancellation Rights: Starting October 1, 2014, outgrants, new or succeeding, must contain the right by the FAA to cancel at will -- at any time and for any reason. Cancellation rights by the grantee are allowed, but should require sufficient notice to the FAA to inspect the property and to determine if any restoration is required.

<u>Outgrant Application Form (1.3.18 for land or 2.6.31 for space</u>): Requesting parties will be required by the RECO to fill out an Application for Outgrant Form found in the Real Estate Template Library for all outgrant requests, including new uses, modification to existing uses, or to request a succeeding outgrant. The RECO will review the request against current real estate records to determine the status of the property, including whether FAA

holds sufficient legal interest in the property, and real estate restrictions, if any, on FAA's ability to grant the use. The RECO will forward the Application for Outgrant, along with pertinent information identified during the real estate review, to the head of the line of business (LOB) or LOB designee responsible for the property for review.

LOB Concurrence: The LOB shall conduct a thorough review and analysis to ensure the secondary use will not interfere with FAA's primary use of the property and that the benefits from the secondary use outweigh the cost and potential for increased liability. Prior to issuing a new outgrant, revising an existing outgrant, or issuing a succeeding outgrant, the RECO must obtain, in writing, concurrence from the LOB, along with any stipulations imposed by the LOB as a condition of issuing the outgrant.

LOB Non-Concurrence: If the LOB does not concur with the outgrant request, the LOB will provide the reason for non-concurrence to the RECO in writing. The RECO will send a letter to the requestor denying the request.

Retention Period and Document Location for Denied Applications: Letters of denial for new requests and the initial application form shall be kept in a central file location within the Real Estate office for a minimum of 1 year after denial. After 1 year, the documentation can be destroyed. All letters of denial to modify existing outgrants or to enter into succeeding outgrants shall be filed in the official outgrant project file.

Permit and License (Outgrant) Forms: The RECO must use the Outgrant Permit Form or the Outgrant License Form. The Permit form is used solely for Federal government entities. The License form is used for all other entities, including State or Local governments and third parties. Any modifications to the standard template must be approved by the Office of the Chief Counsel or the appropriate Regional Counsel.

Provisions for Use of FAA Space or Other Stuctures: Granting others use of space in FAA buildings or on FAA structures is unusual. The RECO will need to use the Outgrant Permit or License Form and tailor them on a case-by-case basis. This includes adding any additional provisions from the standard space or antenna templates that are applicable and deleting any that apply to land use only. The same care taken to craft the contract when FAA leases space and other structures should be used when FAA leases its space and other structures to other parties. Early coordination with the LOB and Legal when drafting the outgrant for space or structures is highly encouraged. All modifications to the standard outgrant templates must be approved by the Office of the Chief Counsel or the appropriate Regional Counsel.

Questions and Answers:

Q1. Outgrant vs. Reimbursable: How is cost captured in an outgrant (either license or permit) and is it different from a reimbursable?

A1. An outgrant license or permit is not considered a reimbursable agreement because it does not result in the direct provision of a supply or a service by the FAA. Rather, an outgrant gives the grantee permission to utilize an FAA real property asset. Utility, janitorial, or other services that may be provided because of the outgrant, are incidental to the use of the subject real property. The RECO must use the award letter designation of J under the PRISM system for an

outgrant award number.

A signed original outgrant document is sent to the Accounts Receivable department in accounting. With respect to amounts paid as consideration for the outgrant, FAA may retain all outgrant proceeds in the account established pursuant to 49 USC 45303(c). Please check with ALO-200 for the account number. The RECO must make every effort to negotiate a payment amount that is equal to the Fair Market Value (FMV) of the outgrant, which should represent a fair market value for use of the property and the cost of any additional services and overhead costs provided by the FAA.

Q2. Cost Structure: How can the cost be structured in an outgrant?

A2. The RECO will structure the cost of the outgrants in the following order of preference:

- Based upon fair market value along with any additional services and overhead provided to grantee;
- Based upon the FAA cost and overhead only; or
- A no-cost outgrant that specifies the non-monetary consideration of both parties.

Q3. Waiving Rent: Under what circumstances should a RECO waive rent 1) collecting the fair market value for an outgrant and only charge for services provided or 2) collect no monetary consideration at all?

A3. If the grantee is providing non-monetary consideration to the FAA that is of a direct benefit to the National Airspace System and the cost of any services provided by the FAA to the grantee are minimal, then the RECO may waive collecting monetary consideration with LOB approval. The value of the non-monetary consideration should be of equivalent or greater value than the fair market value waived. The RECO should not waive the cost of the services and related overhead in the outgrant if the FAA is providing more than minimal services to the grantee.

Q4. Specify Use: Should outgrants specify the use of the property?

A4. Yes, the outgrant must state the specific use of the property. Examples: agricultural use including type of crops and maximum height of crops allowed; grazing use including type and maximum number of animals; mining rights, including what is being mined and exactly how it will be extracted; communication site, including type, maximum number of frequencies, etc.

Q5. Options: Can outgrants have options?

A5. No.

Q6. Termination: Must outgrants be revocable by the FAA?

A6. Yes. The FAA must be able to terminate an outgrant at any time and for any reason during the term of the outgrant. All outgrants will contain an FAA revocation clause. Outgrants are considered a form of temporary disposal until the property is needed by the FAA or the FAA elects to permanently dispose of the property. FAA must be able to regain control

of the property at any time. A grantee looking for a more permanent use should seek other property. For outgrants on property that the FAA does not own (e.g. leased property), the revocation clause in the outgrant must be structured to ensure the FAA can comply with all contractual termination rights of the underlying contract (lease).

Q7. Transferability: Can the licensee or permitee transfer the rights of the outgrant?

A7. No. Outgrants are issued exclusively to the licensee/permitee for limited time and for a specific purpose, the licensee/permitee has no rights under license/permit, subject to FAA's right to revoke the outgrant at will.

Q8. Emergency Service Providers: Can we waive the fee for an emergency service agency that requests an outgrant from the FAA?

A8. The criteria to charge rent to an emergency provider is not whether they provide emergency services but whether the grantee is a state or local government or the grantee is a private entity. If the emergency services or 911 party is another government entity, such as a state, county, or city government, the RECO can waive the rent for use of our property. However, the government entity should make their own improvements, be liable for what it does on the property, and pay for any FAA-provided services based on actual costs and overhead (i.e. utilities, pro rata share of road maintenance, and any other services that FAA renders for the grantee).

If the emergency services party is a private entity, then the RECO will need to charge fair market value for use of the property along with any FAA-provided services. The FAA must not give an unfair advantage to one private entity over another. Further, if other private property is available nearby, the emergency service provider should go to the private property and not the FAA.

Q9. Liability Insurance: Is the grantee, as a condition of the outgrant, required to carry general liability insurance?

A9. It depends on whether the grantee is a Federal agency, a State or local government entity, or a private entity (all others). As a general policy, the FAA requires that any use of FAA property by a grantee is adequately covered against potential liability and/or damage caused by the use. In addition to general liability insurance, this must include coverage of costs due to potential damage to the environment (e.g. wetlands, endangered plants, etc.) or through the release of hazardous substances or petroleum products on the property. RECO's must obtain a copy of the Certificate of Insurance prior to allowing any new or continuing use (in the case of a succeeding lease) of the property and place the copy in the real estate file. Since insurance policies are generally written for only 1 year, the RECO is to obtain a copy of any successive insurance coverage period from the grantee during the term of the outgrant.

- Other Federal Agency: Federal agencies are self-insured and are generally prohibited from paying for insurance. In lieu of insurance, the Federal agency agrees to pay for any damage caused to the property subject to the availability of appropriations.

- State/Local government: All State and local government entities are required to provide

insurance; however, if the government entity is prohibited from providing insurance due to state or local law, the RECO will need to work with the government party, the LOB, and FAA legal counsel to develop an acceptable alternative liability clause.

- Private Entity: Effective October 1, 2014, all private entities must obtain and maintain a general liability insurance policy as a condition of use of FAA property. All outgrant licenses with private entities shall contain the standard general liability insurance clause found in the Outgrant License Form for non-Federal entity.

2.4.11 Appendix K: Supplemental Lease Agreement (SLA) Revised 10/2015

Supplemental Lease Agreements (SLA)

The RECO **must** use an SLA for modifications to existing lease requirements to (1) document changes in lease ownership, (2) exercise an option provided in the lease, e.g. renewal, early termination, etc. (3) extend a lease prior to expiration, and (4) change or modify any aspect of the lease. The RECO must use Form 2.6.13 to execute an SLA.

An SLA must include all updated clauses to the base lease, except when exercising a lease renewal option, where the price and all other terms of the option have been previously negotiated and agreed upon in the lease.

All modifications to the existing requirements must be within the scope of the lease (e.g., the requirements the lessor has to perform on the lease).

No SLA may extend the term of an existing cost lease beyond twenty (20) years unless approved by Legal.[1] This restriction does not apply to no-cost leases.

Unilateral SLAs

A unilateral SLA is one that is executed only by the RECO, and no consent of the Lessor is required. As examples, a unilateral SLA is appropriate under the following circumstances:

- Exercising a lease renewal option where the price and all other terms of the option have been previously negotiated and agreed upon in the lease
- Exercising a termination right in accordance with the cancellation clause in the lease
- To document a change in rent previously agreed to in the lease that requires an event in the future in order to determine the rent change, e.g. the operating cost escalation clause or tax adjustment clause
- To document a change in ownership where the RECO has supporting documentation in the real estate file provided by the new owner

Bilateral SLAs

[1] [1] See Legal Coordination 7.0 for additional information.

A bilateral SLA is one that must be signed by the RECO *and* the Lessor. Any changes to the lease *not previously negotiated and agreed to in the lease* require a bi-lateral SLA. Below are examples of where a bilateral SLA would be required:

- To identify or change the rent commencement date
- To modify square footage and associated rent based on actual measurement upon acceptance of the space for FAA occupancy
- Extending the lease term
- Terminating a lease that does not contain termination rights

2.4.12 Appendix L: Contracting Officer Representative (COR) Added 1/2007

a. Designating a Contracting Officer's Representative. The RECO may designate an individual representative, such as a COR to facilitate administration of a lease or contract. The RECO will designate a representative by written memorandum describing the specific authorities and responsibilities delegated to the representative. The RECO should ensure that the assigned representative has adequate training at the time of the assignment or will receive training within three months of being assigned the responsibility. Based on the yearly anniversary date of the lease/contract, the RECO should also obtain from the appointed representative, an annual validation that the representative has participated in adequate refresher training during the year. The RECO provides a delegation memorandum to the appointed COR at the time the assignment is made or changed in any way.

b. Authority of the Representative. A duly-assigned representative is authorized to perform the actions delegated by the RECO. The representative of the RECO may assume the designated authorities when appointed, provided the COR has demonstrated adequate training. If the COR does not have adequate training at the time of the assignment, the COR may assume designated authorities for a provisional period, not to exceed three months, until completion of adequate training. While performing as a representative, the COR maintains current knowledge of the COR duties and responsibilities through formal training or other means and advises the RECO annually. The RECO should consider the specific requirements and needs of the lease/contract in determining the support required from the representative and clearly enumerate the authority granted to the COR in a written memorandum of delegation. A sample delegation memorandum is included herein. One memorandum of delegation for all situations may not be appropriate since contractual situations are distinct and have varying needs. Therefore, the sample memoranda may be modified to reflect the specific needs of the lease/contract and the RECO.

c. Changing the COR. To change the COR on a lease/contract, the RECO must revoke the previous delegation and issue a succeeding delegation to the new COR, Both of these memoranda must be in writing and issued concurrently.

d. Information to the Lessor/Contractor. The RECO furnishes copies of all memoranda of delegation, revocation, changes in authority, or re-delegation to the lessor/contractor to make them aware of the authorities and limitations of the COR. A sample lessor/contractor notification letter is included herein and may also be modified to reflect the specific needs of the contract and the RECO.

2.4.13 Appendix M: Labor Standards/Davis Bacon Revised 7/2009

Labor Standards/Davis-Bacon Act

a. Davis-Bacon Act. The Davis Bacon Act (40 U.S.C. 276a-278a-7) provides that contracts of $2,000 or more to which the U.S. or the District of Columbia are a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the U.S., will require that no laborer or mechanic employed directly upon the site of the work will receive less than the prevailing wage rates as determined by DOL.

b. Related Laws.

(1) The Copeland ("Anti-Kickback") Act (18 U.S.C. 874 and 40 U.S.C. 276c) makes it unlawful to induce, by force, intimidation, threat of dismissal, or otherwise, any person employed in the construction or repair of public buildings or public works, to give up any part of the compensation to which the person is entitled under a contract of employment. Contracts subject to the Copeland Act will include a clause requiring contractors and subcontractors to comply with regulations issued by DOL. Additionally; the Copeland Act requires each contractor or subcontractor to furnish weekly statements of compliance regarding wages paid to each employee.

(2) The Contract Work Hours and Safety Standards Act applies to construction contracts involving laborers or mechanics.

c. Applicability.

(1) The Davis-Bacon Act and related laws apply to:

(a) Construction work to be performed by laborers and mechanics on a public building or public work site;

(b) Dismantling, demolition, or removal of improvements if construction at that site is anticipated under the same or a separate contract;

(c) Manufacture or fabrication of construction materials and components to be incorporated into the work when manufacture or fabrication is performed at the construction site;

(d) Painting of public buildings or public works, whether performed in connection with the original construction or as alteration or repair of an existing structure; and

(e) Hazardous waste cleanup contracts that require elaborate landscaping activities or substantial excavation and reclamation work (see DOL Memorandum No. 155, March 25, 1991).

(2) Davis-Bacon Act and related laws do not apply to:

(a) The manufacturing or fabrication of components or materials offs the construction site, or their subsequent delivery to the site by the manufacturer or fabricator, unless the manufacturing or fabrication facility is operated solely in support of the construction

project;

(b) Contracts requiring construction work that is so closely related to research, experiment, and development that it cannot be performed separately, or that is itself the subject of research, experiment, or development;

(c) Employees of railroads operating under collective bargaining agreements that are subject to the Railway Labor Act; or

(d) Employees who work at the contractors' or subcontractors' permanent home offices, fabrication shops, or tool yards not located at the site of the work. However, when employees go to the work site and perform construction activities there, the requirements of the Davis-Bacon Act and related laws are applicable for the actual time so spent, not including travel unless the employees transport materials or supplies to and from the site of the work.

Procedures for Construction in Leases

a. Davis-Bacon Act Wage Determinations.

(1) DOL is responsible for issuing wage rate determinations for construction reflecting prevailing wage and fringe benefits. The wage determinations apply to those laborers and mechanics employed by a contractor at the site of the work, including drivers who transport materials and equipment to and from the site. Wage determinations are issued for different types of construction, such as building, heavy, highway, and residential (referred to as rate schedules), and apply only to the types of construction designated in the determination.

b. General Requirements.

(1) The RECO should ensure that clause is contained in the lease when applicable see Labor Standards above. If a RECO receives a call about these clauses, he or she should contact DOL for guidance (www.wdol.gov and further examples are contained in DOL Memoranda Numbers 130 and 131).

2.4.14 Appendix O: Disaster or Emergency Janitorial Services Revised 4/2012

When a health related emergency (such as pandemic flu) is declared by the United States Department of Health and Human Services Centers for Disease Control and Prevention (CDC), or other authorized federal, state or local governmental official, and the FAA Real Estate Contracting Officer (RECO) is provided written notification of the declaration by the LOB or duly authorized government official, the RECO is authorized to modify the cleaning requirements of all leased facilitates in the affected geographic area, upon receipt from the Line of Business (LOB) of a purchase request to do so. The modifications to the janitorial services requirements shall be memorialized in a Supplemental Lease Agreement (SLA), and will be consistent with current guidelines for prevention of the spread of communicable diseases.

These requirements are not applicable to space that is assigned to FAA by the General Services Administration (GSA). Any modifications to the janitorial requirements at GSA assigned facilities shall be undertaken by the GSA Contracting Officer working with FAA RECO.

The costs of the revised janitorial requirements will be negotiated with the Lessor at the time the purchase request is received by the RECO, and shall be included as an adjustment to the monthly rental amounts. The SLA will be effective on a month to month basis until the RECO has notified the lessor in writing that the health related emergency has ended.

2.4.15 Appendix P: Prohibited Real Estate Broker Services Added 7/2010

A. Background:
Real Estate often has a need for the use of brokers in the acquisition of real property. Broker(s) represent the potential lessor during land and space acquisition. The agency is often approached by Broker(s) representing potential lessor(s) who have property to meet a current requirement or unsolicited offer for the FAA. However, the RECO is not authorized to accept broker services to represent the FAA, i.e. tenant representative without a formal agreement in place authorized by legal counsel, in accordance with legal coordination set forth in AMS Real Estate Guidance Section 7.4, and concurred by ALO-200 and AGC-500.

B. Prohibition of Using a Letter to Acquire Broker Services:
It often seems appealing to use a letter to acquire services from a broker service. Letter contracts for real estate broker services that fail to meet the requirements of AMS T3.2.4 and the requirements for legal coordination set forth in AMS Real Estate Guidance Section 7.4 are prohibited.

1. Excerpt of the definition of letter contracts as defined in AMS T3.2.4, subsection 7: Letters and Ceiling Price Contracts as follows:

a. General. A letter contract is a preliminary contractual instrument that authorizes a contractor to immediately begin work, subject to negotiating a definitive contract. A letter contract should not be used for contract modifications.
b. Letter Contract.
(1) Description:
(a) Provides a preliminary authorization for the contractor to immediately begin work.
(b) Includes a brief description of the work, performance period, and a limitation on the total funding amount that a contractor may expend and FAA will pay.
(c) Contractor agrees to be bound by the AMS termination, changes and disputes provisions.
(2) Use When:
(a) The FAA's interests demand that the contractor be given a binding commitment so that work can start immediately and negotiating a definitive contract is not possible in sufficient time to meet the requirement.
(b) Emergency or other special situations for limited amounts.
(3) Considerations:
(a) Should not be used to commit the FAA to a definitive contract in excess of the funds available at the time the letter contract is executed.
(b) Should not be amended to satisfy a new requirement unless that requirement is inseparable from the existing letter contract. Any such amendment is subject to the same requirements and limitations as a new letter contract.

As noted above, a letter contract is used for an immediate purpose pending a negotiated contact and emergency services. The use of broker services does not fall under these definitions. Thus, the RECO is prohibited from entering into a broker service using a letter.

Additionally, the AMS establishes clearly those who may act to bind the United States under the AMS T3.1.4 (Delegations) item 6 (Limited Procurement Authority to Other qualified individuals). Thus, using the services of a broker without an approved (see above for approvals by legal counsel and concurrence by ALO-200 and AGC-500) contract is unauthorized delegation. To summarize, only Federal/FAA employees have the authority to enter into a binding commitment on behalf of the United States. Since broker contractors are not Federal/FAA Employees, they have no authority to do so, and any implication to the contrary is prohibited. Furthermore, the spending of appropriated monies is an "inherently governmental function" as established in OMB Circular A-76. As such, the RECO cannot contract this function to a real estate broker because the broker is not a Federal/FAA employee.

2. Excerpt of a definition of who has delegated authority under AMS T3.1.4 Delegations, subsection 6: Limited Procurement Authority to Other Qualified Individuals:

> a. General. The COCO may delegate a limited form of procurement authority to qualified individuals who are not warranted COs. This limited authority may be granted to individuals within or outside of the contracting office when supported by a demonstrated need. Managers of non-contracting offices that require limited purchasing authority may request a Delegation of Procurement Authority (DPA) from the COCO. The COCO evaluates the request and delegates authority to the individual needing the authority. The delegation must be in writing and state specific limitations governing the limited procurement authority, such as dollar thresholds or types of procurement (i.e. supply, services, construction, etc). Guidance in this section does not apply to the purchase card program, as it is addressed in AMS Procurement Guidance T3.2.6, Purchase Card Program.

Furthermore, a letter to a broker acquiring services is not only misleading it implies an employer - employee relationship which does not exist. Personal Services are characterized by an implied employer - employee relationship between the agency and the contractor. Thus, a letter acquiring broker service would fall under personal service which is prohibited. Personal Services are characterized by an implied employer - employee relationship between the agency and the contractor.

3. Excerpts of Personal Services in AMS Section 3.8.2.3.2S on 3.8.2.3: Personal Services Contracts and 3.8.2.3.2: Determination:

> The FAA may award personal services contracts when the head of a line of business determines that a personal service contract is in the best interest of the agency after thorough evaluation, which includes, but is not limited to the following factors:
>
> 1. Worker's compensation payments and other tax implications;
> 2. Government's potential liability for services performed;
> 3. Availability of temporary hires to perform the desired services;
> 4. Demonstration of tangible benefits to the agency;

5. Detailed cost comparison demonstrating a financial advantage to the Government from such contract;
6. Potential post-employment restrictions applicable to former employees;
7. Legal determination that the work to be performed is not inherently governmental; and
8. Potential post-employment restrictions pursuant to Federal Workforce Restructuring Act of 1994 Public Law 103-226.

Although personal service contracts are permitted, they should be used only when there is a clear demonstrated financial and program benefit to the FAA. The determination required herein is non-delegable and shall be reviewed for legal sufficiency by the Office of the Chief Counsel.

C. Exhibits of Prohibited Letters with Broker(s)

Attached are four sample letters sent to potential broker(s) which are prohibited. These letters are misleading the broker and potential lessor. These sample letters also are prohibited due the conflict with the sections of the AMS cited above.

Additional reasons for these letters being prohibited are detailed below.
a. Attachment Letter A- is misleading in that the Real Estate Broker Company has been designated as the agent for the FAA. Only the Real Estate Contracting Officer can be the agent for the FAA.
b. Attachment Letter B - Real Estate Broker Company states they have the authority to be the exclusive agent for the FAA. As stated above, the only agent in the FAA is the RECO.
c. Attachment Letter C - States that we terminated an agreement with the broker who was our exclusive agent. First we did not have an official agreement. And second the last sentence of the letter thanks the broker for negotiating; the broker does not have authority to negotiate on behalf of the FAA.
d. Attachment Letter D - Letter of intent - The Broker has no authority to bind the government prior to the award of a lease by a RECO. As mentioned above, they are not the agent for the FAA.

D. Acceptable Acquisition of Broker Services

There are several options to find an acceptable format to acquire broker services:

1.) Conduct a full and open competition either on a National or Service Area level.
a. Develop a team to include at a minimum real estate subject matter experts including RECOs, National SME and headquarters and/or regional council.
i. The team can look into developing SIR to acquire broker services.
ii. Investigate how GSA and other agencies developed broker contracts.
2.) Data gathering, i.e. market survey information can be contracted using a purchase card. Please follow the purchase card requirements. AMS Procurement Guidance T3.2.6, Purchase Card Program.

Any attempts to acquire such services must be submitted for approval to ALO-200/AGC-500 for review and concurrence.

2.4.15.1 Sample Prohibited Letters Attachment A: Hiring a Broker Added 7/2010

Attachment Letter A- is misleading in that the Real Estate Broker Company has been designated as the agent for the FAA. Only the Real Estate Contracting Officer can be the agent for the FAA.

RE Company
Address

Dear Sir:

Subject: Flight Standards District Office (FSDO)
Location:

Company as our Exclusive Agent to assist us in locating new office facilities in the location XXX.

It is understood that RE company has the authority to act as our agent to identify and evaluate various office opportunities, which may satisfy the needs for our FSDO. Information derived from your efforts will be provided to the RECO in our office for consideration and approval.

It is also understood that RE Company will receive compensation through earned commissions paid by the building owner as part of the transaction. The FAA will not incur any financial obligation to you under this agreement. Likewise, the FAA is not assuming any responsibility or liability for any of your actions. The FAA does not extend to you any legal authority that will encumber the Federal Government. All options, determinations, or final decisions will be subject to approval by the FAA Contracting Officer.

We will operate under this arrangement until such time as your services are no longer required or deemed to be unsatisfactory by the FAA. You will be notified at that time.

We look forward to working with your firm in our search for office space and trust that you will be able to located space for our FSDO requirements.

Sincerely,

RECO

2.4.15.2 Sample Prohibited Letters Attachment B: Broker Letter to potential lessor

Added 7/2010

Attachment Letter B - Real Estate Broker Company states they have the authority to be the exclusive agent for the FAA. As stated above, the only agent in the FAA is the RECO.

RE Estate Lessor

RE: Request for Proposal

Dear Sir:

I have been retained by the FAA ("Tenant"), as their exclusive agent in identifying and evaluating various opportunities for a new office location in the location. In that regard, I would appreciate receiving a response to this Request for Proposal.

In order to determine if it will satisfy our needs, I am furnishing specific information describing their requirements, objectives, and time schedule to enable you to provide a detailed and informed response. Your response will serve as the basis for comparative analysis and subsequent negotiations with the successful landlord by Tenant and representatives of RE Company.

Proposed RFP

Please respond to the RFP in writing no later than date. The above terms and conditions of any lease and/or related documents are subject to approval by FAA.

On behalf of the FAA, I look forward to your favorable response and to further discussions concerning all of these points. Please call me at your convenience if you and/or other representatives of your building have any questions regarding this inquiry.

Sincerely,

RE Company

2.4.15.3 Sample Prohibited Letters Attachment C: Letter of Termination with Broker

Added 7/2010

Attachment Letter C - States that we terminated an agreement with the broker who was our exclusive agent. First we did not have an official agreement. And second the last sentence of the letter thanks the broker for negotiating; the broker does not have authority to negotiate on behalf of the FAA.

RE: Company

Dear Sir:

Subject: Lease of FSDO

This letter will officially terminate the exclusive agency agreement that was previously entered into between the FAA and RE Company to assist with locating office facilities in the location or renewing our existing lease at location.

The FAA has determined that a lease renewal at location is not in the best of interest of the Government and the existing lease should not be renewed. The Government is no longer in need of services from RE Company.

You can inform the property owner that the FAA will not be renewing our lease at the current location and that they should direct all future correspondence on this matter to the RECO.

We thank you for your efforts in lease negotiations with Lessor.

Sincerely,

RECO

2.4.15.4 Sample Prohibited Letters Attachment D: Letter of Intent Added 7/2010

Attachment Letter D - Letter of intent - The Broker has no authority to bind the government prior to the award of a lease by a RECO. As mentioned above, they are not the agent for the FAA.

Real Estate Lessor

Re: Letter of Intent for Flight Standards District Officer (FSDO)

Dear Sir:

As exclusive broker, RE Company is pleased to submit the following Letter of Intent for which the Federal Aviation Administration (FSDO) is willing to prepare a Lease for your review.

Lease clauses included.

Upon agreement of the Terms within this Letter of Intent, the Government is prepared to provide a Lease of the Premises will occur.

If the foregoing Terms are acceptable, please have the Landlord sign below and we will proceed with preparation of a Lease Agreement for Landlord's review. Please feel free to call me with any questions or comments regarding this proposal number. Thank you for your efforts.

Best regards,

RE Company

AGREED AND ACCEPTED this __day of _____, 20__.

Agreed to by Landlord:

By: _____

Name: _____

Title: _____

2.4.16 Appendix Q: Environmental / Sustainability / Energy Revised 10/2015

A. Guidance

FAA is required to significantly reduce the negative environmental effects of constructing, leasing, operating and maintaining and demolishing buildings. Some of the potential results from successful reduction of negative environmental effects may include: 1) a reduction in total life-cycle costs of facilities through the improvement of energy efficiency and the implementation of alternative energy technologies; 2) a reduction in total adverse environmental impacts by the reduction of carbon emissions; and 3) an enhancement of the safety, health and productivity of FAA employees through the reduction in the use of toxic chemicals in buildings.

1. High Performance Sustainable Buildings

Executive Order (EO) 13423, Strengthening Federal Environmental, Energy, and Transportation Management, dated January 24, 2007, and EO 13514, Federal Leadership in Environmental, Energy, and Economic Performance, dated October 5, 2009, require federal agencies to comply with the Guiding Principles for High Performance and Sustainable Buildings (Guiding Principles). The Guiding Principles establish building standards for:

- Integrated design,
- Energy performance,
- Water conservation,
- Indoor environmental quality, and
- Building materials.

The Interagency Sustainability Working Group (ISWG), established by EO 13423, issued the current version of the Guiding Principles on December 1, 2008, which includes standards for building construction and major renovation, as well as standards for building operation and maintenance (HPSB Appendix).

The EOs direct the FAA to incorporate the HPSB Guiding Principles into 15% of its existing owned and directly leased building inventory greater than 5,000 square feet (it should be noted that Energy Independence and Security Act (EISA) requires Energy Star labeled buildings for 10,000 gross square feet or above) by 2015 and demonstrate annual progress thereafter toward 100% conformance. FAA's strategy to meet this mandate includes acquiring green leases.

New or succeeding lease space and space which FAA shall continue to occupy through a succeeding lease must meet the Guiding Principles (HPSB Appendix). A RECO can identify buildings that will meet the Guiding Principles by looking for Energy Star labeled buildings or buildings that have received Leadership in Energy and Environmental Design (LEED) certification. A RECO may pay more for sustainable lease spaces to the extent that funds are available. The space acquisition shall be considered financially feasible if the rental offer for space in a conforming building is no more than 10% greater than the market rate for a comparable conventional building in the same rental market. If the market does not support buildings that meet the Guiding Principles (e.g., the RECO is unable to obtain sufficient competition for HPSBs, the offered rental rates are excessive, etc.), then the RECO must provide written justification for the inability to meet the Guiding Principles in the Negotiator Report. Notwithstanding the foregoing, the RECO shall include within the solicitation all AMS

provisions applicable to the acquisition of sustainable or "green" space.

2. Energy Star Buildings

As of December 19, 2010, Section 435 of the EISA mandates that, if financially feasible, all new space must be acquired in buildings having either an Energy Star label for the most recent year, or a commitment from the Lessor to earn the Energy Star label within one year of signing the lease. The acquisition shall be considered financially feasible if the proposed rental is no more than 10% over the market rate for a comparable building in the same rental market. Regardless of whether or not acquiring space in an Energy Star designated building is financially feasible, the RECO shall incorporate all AMS provisions applicable to the acquisition of sustainable or "green space", which include the provisions for Energy Star designation, into the Solicitation for Offer (SFO).

In addition to financial infeasibility, there are four other exemptions to the requirement for the Energy Star label that is allowable. They are the following:

1. No space is offered in a building with an Energy Star label in the delineated area that meets the functional requirements of an agency, including location needs;
2. The agency will remain in a building they currently occupy;
3. The lease will be in a building of historical, architectural, or cultural significance verified by listing or eligibility for listing on the National Register of Historic Places; or
4. The lease is for no more than 10,000 gross square feet of space.

The determination of whether or not a particular building meets the requirements for an exception to the requirement for an Energy Star label, shall be based upon a review of supporting documentation submitted to the RECO by the Lessor/Offeror. If the documentation submitted is determined sufficient to establish such an exception, the Lessor/Offeror shall be required to renovate the subject building with all energy efficiency and conservation improvements that would be cost effective over the life of the lease. As mentioned in the HPSB Guidance, a RECO may pay more for sustainable lease spaces to the extent that funds are available. The acquisition of space that complies shall be considered financially feasible if the rental offered for a conforming building is no more than 10% over the market rate for a comparable conventional building in the same rental market. As stated previously, if unable to obtain space designated as Energy Star compliant, the RECO must provide written justification for such inability in the Negotiator Report.

B. Applicability of Sustainability Requirements to FAA Space Acquisition

The requirements of this section apply to all FAA owned and leased buildings reported in the Real Estate Management System (REMS). The FAA has updated its inventory of buildings and is working towards meeting the EO 13423 and 13514 and EISA requirements regarding High Performance Sustainable Buildings (HPSB). HPSB requirements apply to space and buildings having the following characteristics: 1) owned or leased and 2) over 5,000 square feet (Guiding Principles).

C. Laws, Executive Orders, Regulations and Other Policies Applicable to Sustainability

Legal and other programmatic requirements for the acquisition of space in sustainable buildings

include:

1. Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance, 74 FR 52117, October 5, 2009
2. Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management, 72 FR 2763, January 23, 2007
3. Office of Management and Budget (OMB) Circular No. A-11, June 27, 2002
4. Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding
5. Energy Policy Act (EPAct) of 2005, Publ.L.No.109-58
6. Energy Independence and Security Act of 2007, Pub.L.No.110-140
7. Implementing Instructions - Sustainable Locations for Federal Facilities
8. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
9. National Environmental Policy Act (NEPA)
10. Resource Conservation and Recovery Act (RCRA)
11. FAA Order 1050.19B, Environmental Due Diligence Audits (EDDA) in the Conduct of FAA Real Property Transactions
12. Knowledge Services Network (KSN)
13. FedCenter and The Whole Building Design Guide (WBDG) Websites

<u>Question and Answers concerning FAA Order 1050.19B</u>

Q 1: Is the RECO required to obtain a memorandum as stated in 1050.19B 1-9b(3) or an EDDA if the RECO is executing a new or succeeding lease or exercising an option to renew the space lease?

A 1: At this time and until further notice of a change to the FAA Order 1050.19B , the requirements to obtain an EDDA, EDDA waiver, or memorandum remain in place and are the responsibility of the service/office requester to provide to the RECO. See additional information below:

- No additional EDDA documentation is required when exercising an existing renewal option where the terms of the option were negotiated during the original leasing action.

- For new acquisitions (new locations or increasing the size of the existing location) or for disposals/terminations (in whole or in part), the RECO is not to finalize the real estate transaction until the appropriate documentation (EDDA report, memorandum and/or waiver) is approved by the LOB.

- For succeeding leases in the same location where there are no changes in the area under lease (either increasing or decreasing in size), if the appropriate documentation (EDDA report, memorandum and/or waiver) is not provided either by the LOB or upon request by the RECO, the RECO can proceed with the succeeding lease award but must document the lease file showing evidence of the attempt to secure the documentation from the LOB.

D. Definitions

See Appendix E to this Guidance for a full listing of terms and definitions applicable to HPSB. Set forth below are some of the most commonly used terms and definitions applicable to sustainability.

- **Energy Intensity** - energy consumption per square foot of building space, including industrial or laboratory facilities (EO 13514, Section 19(f)).
- **Environmental** - environmental aspects of internal agency operations and activities, including those aspects related to energy and transportation functions (EO 13514, Section 19(g)).
- **Sustainability** - to create and maintain conditions, under which humans and nature can exist in productive harmony, that permit fulfilling the social, economic, and other requirement of present and future generations of Americans (EO 13423, Section 9 and EO 13514, Section 19(l)).

E. Operation and Maintenance

The Guiding Principles (HPSB APPENDIX) include standards for both building construction and major renovation as well as for the operation and maintenance (O&M) of buildings and space. The O&M program for leased buildings should be monitored by the Lessor throughout the lease term and O&M information provided to the RECO to ensure it conforms to the O&M requirements of the Guiding Principles.

F. Tracking and Reporting Sustainability Compliance

Tracking and reporting on agency progress towards reaching the sustainable buildings goals is a requirement of EOs 13423 and 13514 and EISA 432. To leverage existing resources related to real property management, sustainable building inventory data is reported in the Federal Real Property Profile (FRPP) database via FRPP data element #25 "Sustainability". In order to select "Yes (1)" for data element #25, the new, existing or non-GSA leased building must meet the Guiding Principles (HPSB APPENDIX). The rate of building conformance to the Guiding Principles is reported by the Department of Transportation (DOT) to Office of Management and Budget (OMB) annually with mid-year progress updates via the Sustainability Scorecard.

1. Tools to use for Reporting:

The following are the systems and tools that must be used to report data on HPSB in order to meet the requirements of EOs 13514 and 13423 and EISA:

1. Real Estate Management System (REMS) - Submit the Federal Real Property Portfolio (FRPP) annually as well as additional information on buildings that meet the criteria for HPSB. Users are assigned and managed by ALO-300.
2. Energy Star Portfolio Manager - Generates a Guiding Principle checklist for reporting HPSBs for FAA. For all leased buildings, the Lessor is required to use this tool to track progress towards meeting the Guiding Principles. The Energy Star Portfolio Manager GP checklist should be provided to the RECO.

Also, the Energy Star Portfolio Manager can help FAA track and report on its progress in acquiring leased Energy Star buildings. Federal agencies assessing their existing building

inventory against the Guiding Principles for HPSBs can use the Guiding Principles Checklist. Access the Guiding Principles Checklist from the Energy Star website.

2.4. 16.1 HPSB: Federal Leadership Revised 10/2015

Purpose: With this Memorandum of Understanding (MOU), signatory agencies commit to federal leadership in the design, construction, and operation of High-Performance and Sustainable Buildings (HPSB). A major element of this strategy is the implementation of common strategies for planning, acquiring, siting, designing, building, operating, and maintaining HPSBs. The signatory agencies will also coordinate with complementary efforts in the private and public sectors.

Background and Federal Policy: The Federal government owns approximately 445,000 buildings with total floor space of over 3.0 billion square feet, in addition to leasing an additional 57,000 buildings comprising 374 million square feet of floor space. These structures and their sites affect our natural environment, our economy, and the productivity and health of the workers and visitors that use these buildings.

Therefore, the Federal government is committed to designing, locating, constructing, maintaining, and operating its facilities in an energy efficient and sustainable manner that strives to achieve a balance that will realize high standards of living, wider sharing of life's amenities, maximum attainable reuse and recycling of depletable resources, in an economically viable manner, consistent with Department and Agency missions. In doing so and where appropriate, we encourage the use of life cycle concepts, consensus-based standards, and performance measurement and verification methods that utilize good science, and lead to sustainable buildings.

Goals and Objectives of this MOU: Consistent with and in addition to Federal policy, statutes, executive orders and supplemental agency policies and guidance, the Parties to this MOU collaboratively seek to establish and follow a common set of sustainable Guiding Principles for integrated design, energy performance, water conservation, indoor environmental quality, and materials aimed at helping Federal agencies and organizations:

- Reduce the total ownership cost of facilities;
- Improve energy efficiency and water conservation;
- Provide safe, healthy, and productive built environments; and,
- Promote sustainable environmental stewardship.

Other Laws and Matters: This MOU is for internal management purposes of the Parties involved. It is not legally enforceable and shall not be construed to create any legal obligation on the part of any of the signatories. This MOU shall not be construed to provide a private right or cause of action for or by any person or entity. This MOU in no way restricts the Parties from participating in any activity with other public or private agencies, organizations or individuals.

The Parties mutually recognize and acknowledge that MOU implementation will be subject to financial, technical, and other mission-related considerations. It is not intended to create any rights, benefits, or trust responsibilities, either substantive or procedural, nor is it enforceable in

law by a party against the US, its agencies, its officers, or any other person.

Collaboration under this MOU will be in accordance with applicable statutes and regulations governing the respective Parties. Nothing in this MOU is intended to affect existing obligations or other agreements of the Parties.

Effective Period: This MOU will become effective upon signature. It shall remain in effect unless otherwise modified or terminated. Any Party may withdraw upon 30 days written notification to the others.

Modifications: This MOU can be modified through mutual written agreement among the Parties.

Administration: Agencies will strive to incorporate and adopt, as appropriate and practical, the Guiding Principles into existing agency policy and guidance within 180 days of signature. To assist with this effort, the Interagency Sustainability Working Group (ISWG) will provide technical guidance and updates for the Guiding Principles.

The Office of the Federal Environmental Executive will work with the ISWG and Federal Green Building Council to develop methods of reporting on progress towards this MOU in a manner that is least burdensome to the agencies. This may include incorporating reporting into existing mechanisms, such as executive order reports; but in any case with a goal of avoiding a separate reporting process.

2.4.16.2 HPSB Definitions Revised 10/2015

Agency - an executive agency as defined in section 105 of title 5, United States Code, excluding the Government Accountability Office (EO 13514, Section 19(a)).

Energy Intensity - energy consumption per square foot of building space, including industrial or laboratory facilities (EO 13514, Section 19(f)).

Environmental - environmental aspects of internal agency operations and activities, including those aspects related to energy and transportation functions (EO 13514, Section 19(g)).

Sustainability and Sustainable - to create and maintain conditions, under which humans and nature can exist in productive harmony, that permit fulfilling the social, economic, and other requirement of present and future generations of Americans (EO 13423, Section 9 and EO 13514, Section 19(l)).

Zero-Net-Energy Building - a building that is designed, constructed, and operated to require a greatly reduced quantity of energy to operate, meet the balance of energy needs from sources of energy that do not produce greenhouse gases, and therefore result in no net emissions of greenhouse gases and be economically viable (EO 13514, Section 19(o)).

Commissioning - A quality focused process for enhancing the delivery of a project. The process focuses upon verifying and documenting that the facility and all of its systems and assemblies

are planned, designed, installed, tested, operated, and maintained to meet the Owner's Project Requirements.

ReCommisioning - An application of the Commissioning Process requirements to a project that has been delivered using the Commissioning Process. This may be a scheduled recommissioning developed as part of an Ongoing Commissioning Process, or it may be triggered by use change, operations problems, or other needs.

RetroCommissioning - The Commissioning Process applied to an existing facility that was not previously commissioned. This guideline does not specifically address retrocommissioning. However, the same basic process needs to be followed from Pre-Design through Occupancy and Operations to optimize the benefits of implementing the Commissioning Process philosophy and practice.

2.4.16.3 HPSB Guiding Principles for Federal Leadership Revised 10/2015

I. Employ Integrated Design Principles

Integrated Design. Use a collaborative, integrated planning and design process that

- Initiates and maintains an integrated project team in all stages of a projects planning and delivery;
- Establishes performance goals for siting, energy, water, materials, and indoor environmental quality along with other comprehensive design goals; and, ensures incorporation of these goals throughout the design and lifecycle of the building; and,
- Considers all stages of the buildings lifecycle, including deconstruction.

Commissioning. Employ total building commissioning practices tailored to the size and complexity of the building and its system components in order to verify performance of building components and systems and help ensure that design requirements are met. This should include a designated commissioning authority, inclusion of commissioning requirements in construction documents, a commissioning plan, verification of the installation and performance of systems to be commissioned, and a commissioning report.

II. Optimize Energy Performance

Energy Efficiency. Establish a whole building performance target that takes into account the intended use, occupancy, operations, plug loads, other energy demands, and design to earn the Energy Star targets for new construction and major renovation where applicable. For new construction, reduce the energy cost budget by 30% compared to the baseline building performance rating per the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., (ASHRAE) and the Illuminating Engineering Society of North America (IESNA) Standard 90.1-2004, Energy Standard for Buildings Except Low-Rise Residential. For major renovations, reduce the energy cost budget by 20% below pre-renovations 2003 baseline.

Measurement and Verification. In accordance with DOE guidelines issued under section 103 of the Energy Policy Act of 2005 (EPAct), install building level utility meters in new major construction and renovation projects to track and continuously optimize performance. Compare

actual performance data from the first year of operation with the energy design target. After one year of occupancy, measure all new major installations using the Energy Star Benchmarking Tool for building and space types covered by Energy Star. Enter data and lessons learned from sustainable buildings into the High Performance Buildings Database.

III. Protect and Conserve Water

Indoor Water. Employ strategies that in aggregate use a minimum of 20% less potable water than the indoor water use baseline calculated for the building, after meeting the Energy Policy Act of 1992 fixture performance requirements.

Outdoor Water. Use water efficient landscape and irrigation strategies, including water reuse and recycling, to reduce outdoor potable water consumption by a minimum of 50% over that consumed by conventional means (plant species and plant densities). Employ design and construction strategies that reduce storm water runoff and polluted site water runoff.

IV. Enhance Indoor Environmental Quality

Ventilation and Thermal Comfort. Meet the current ASHRAE Standard 55-2004, Thermal Environmental Conditions for Human Occupancy, including continuous humidity control within established ranges per climate zone, and ASHRAE Standard 62.1-2004, Ventilation for Acceptable Indoor Air Quality.

Moisture Control. Establish and implement a moisture control strategy for controlling moisture flows and condensation to prevent building damage and mold contamination.

Daylighting. Achieve a minimum of daylight factor of 2% (excluding all direct sunlight penetration) in 75% of all space occupied for critical visual tasks. Provide automatic dimming controls or accessible manual lighting controls, and appropriate glare control.

Low-Emitting Materials. Specify materials and products with low pollutant emissions, including adhesives, sealants, paints, carpet systems, and furnishings.

Protect Indoor Air Quality during Construction. Follow the recommended approach of the Sheet Metal and Air Conditioning Contractors National Association Indoor Air Quality Guidelines for Occupied Buildings under Construction, 1995. After construction and prior to occupancy, conduct a minimum 72-hour flush-out with maximum outdoor air consistent with achieving relative humidity no greater than 60%. After occupancy, continue flush-out as necessary to minimize exposure to contaminants from new building materials.

V. Reduce Environmental Impact of Materials

Recycled Content. For EPA-designated products, use products meeting or exceeding EPAs recycled content recommendations. For other products, use materials with recycled content such that the sum of post-consumer recycled content plus one-half of the pre-consumer content constitutes at least 10% (based on cost) of the total value of the materials in the project.

Biobased Content. For USDA-designated products, use products meeting or exceeding USDAs biobased content recommendations. For other products, use biobased products made

from rapidly renewable resources and certified sustainable wood products.

Construction Waste. During a projects planning stage, identify local recycling and salvage operations that could process site related waste. Program the design to recycle or salvage at least
50% construction, demolition and land clearing waste, excluding soil, where markets or on-site recycling opportunities exist.

Ozone Depleting Compounds. Eliminate the use of ozone depleting compounds during and after construction where alternative environmentally preferable products are available, consistent with either the Montreal Protocol and Title VI of the Clean Air Act Amendments of 1990, or equivalent overall air quality benefits that take into account life cycle impacts.

2.4.16.4 HPSB: Frequently Asked Questions on Guiding Principles Revised 10/2015

Question	**Resolution**
Can the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings (Guiding Principles) be revised?	Executive Order (EO) 13423 Implementing Instructions provide the Interagency Sustainability Working Group (ISWG) the authority to modify the Guiding Principles. The Implementing Instructions reads: "The ISWG shall review the Guiding Principles and Technical Guidance periodically for updates and to consider adopting additional principles or goals addressing issues such as conservation plantings, integrated pest management, deconstruction, and siting."
Can certification of the building by a third party organization be required?	It is beyond the scope of the Guiding Principles to designate or require certification by a rating system. The EO specifically refers to meeting the Guiding Principles. A preference for third party certification developed by an American National Standards Institute (ANSI) accredited organization is included in the guidance, but is not a requirement. However, utilizing LEED and other green building rating systems as a tool to help meet and verify compliance with the Guiding Principles is highly encouraged.
Can any level of LEED certification, at any time in the past or future, equate to meeting the Guiding Principles?	Historical US Green Building Council Leadership in Energy and Environmental Design (LEED) certification and future LEED certification where registration occurred prior to October 1, 2008 will be accepted as meeting the Guiding Principles. The EO requires sustainable buildings to meet the Guiding Principles. The original intent of the Guiding Principles was to set minimal design expectations for high performing buildings. Although LEED certification offers documentation of green design, it doesn't necessarily

	meet the minimal expectations of the Guiding Principles.
Why do the green building rating systems need to be developed by "ANSI-accredited organizations"?	The National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies. The wording that refers to "ANSI-accredited organizations" is intended to meet the NTTAA requirement and allow for the use of only legitimate third-party green building rating systems. Additional guidance is pending, as the Energy Independence and Security Act (EISA) requires the Department of Energy (DOE), in consultation with the General Services Administration (GSA) and the Department of Defense (DOD), to issue further guidance on viable rating systems and levels of certification.
Do agencies have to obtain third party independent verification and validation (IV&V) of their building data if expertise exists within the agency?	In instances where an agency is reporting compliance under Options NC-1, EB-1, or L-1, internal agency verification will suffice where the agency has established an IV&V process. In instances where an agency is reporting compliance under Options NC-2, EB-2, or L-2, third party certification is required.
How will agencies or OMB verify that a building has met the Guiding Principles if it doesn't require third party certification?	To ensure the accuracy and completeness of an agency's annual Federal Real Property Profile (FRPP) submission, each agency is required to establish an independent validation and verification (IV&V) process for all data reported to the FRPP. Incorporating building sustainability into environmental management systems could fulfill this obligation and meets the intent of EO 13423. The agency IV&V process should be documented in its Sustainable Building Implementation Plan (SBIP).
Can we consider buildings that are not 100% compliant with the Guiding Principles as compliant?	As it currently stands, only those buildings that meet the intent of each Guiding Principle can be credited toward the 15% goal unless the building was registered prior to October 1, 2008 and is third party certified.
Will reporting on and tracking the status of an agency's buildings and	Sustainability compliance will be tracked and measured through the previously established FRPP database.
progress toward the 15% sustainability goal require additional data management systems?	Many agencies have existing internal systems which track additional information on the individual asset level and provide the agency's FRPP submission, however, no new databases are required.
Why are both number of buildings and square footage being tracked?	Both number and square footage of sustainable buildings are being tracked to provide a more complete picture of sustainability progress with respect to the EO goal.
How does this guidance relate to residential housing?	This guidance does not include a separate set of guiding principles for government housing; however, sustainably

	designed housing can be counted as part of the 15% sustainability goal if it meets the appropriate set of Guiding Principles for new construction, existing buildings, or leases. The Department of Energy is developing a rulemaking that addresses High Performance and Sustainable Buildings specific to residential housing under EPAct 2005, Section 109.
How should leased buildings be addressed?	All leases are to be reported per EO 13423, including capital and operating leases. In reporting the sustainable inventory to the FRPP, the signatory agency (agency which is a party to the lease with the lessor) is responsible for reporting the building. For the occupant agency, the sustainability of the asset may be identified and reported in its SBIP.
Why do the Guiding Principles reference specific versions of standards, such as American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) 90.1 2007?	Specific years are referenced because the goals included in the Guiding Principles are intended for these versions of the standards. Whether the goals will apply to future versions of the standards cannot be known, therefore the words "current standard" were not used.
Why do the Guiding Principles not reference "if life cycle cost effective" for 30% more energy efficient requirement?	The Guiding Principles are to be applied to the 15% of an agency's portfolio that are considered high performance sustainable buildings, and thus the life cycle cost effective wording is not used in the Guiding Principles, including the energy efficiency requirement.
How is commissioning addressed for existing buildings?	For existing buildings, there is an increased focus on retro-and re-commissioning. The requirement of "total" commissioning was taken out of both sets of Guiding Principles to allow for a more tailored approach to commissioning, depending on the size and complexity of the building.
How does the Guiding Principle on Energy relate to 10 CFR 433?	The energy performance guidance defined in 10 CFR 433 allows for exceptions for high energy use activities when calculating estimated energy use. The Guiding
	Principles use the ASHRAE 90.1-2007 standard as the baseline and method for calculating energy performance.
Why are WaterSense products referenced, given their currently limited availability?	The phrase "where available" was added to the expectation to specify WaterSense products.
How was the daylighting Guiding Principle amended for EB?	The daylighting Guiding Principle was adapted to increase the focus on lighting controls for EB. As with many of the existing building Guiding Principles, there are multiple options for compliance. Existing buildings have little control over building envelope renovations, so alternative compliance was necessary.

How does the Guiding Principle on Energy relate to 10 CFR 433?	The energy performance guidance defined in 10 CFR 433 allows for exceptions for high energy use activities when calculating estimated energy use. The Guiding Principles use the ASHRAE 90.1-2007 standard as the baseline and method for calculating energy performance.
Why are WaterSense products referenced, given their currently limited availability?	The phrase "where available" was added to the expectation to specify WaterSense products.
How was the daylighting Guiding Principle amended for EB?	The daylighting Guiding Principle was adapted to increase the focus on lighting controls for EB. As with many of the existing building Guiding Principles, there are multiple options for compliance. Existing buildings have little control over building envelope renovations, so alternative compliance was necessary.

2.4.17 Appendix R: Managing Rent Adjustment Clauses After Lease Award **Added 10/2015**

A. Instructions On The Use Of The CPI And/Or Tax Escalation Clause(s):
Use of the Standard CPI and/or Tax Escalation clause requires manual processing by RECOs. For every rent adjustment, the RECO must obtain then current CPI rates or a copy of the then-current tax assessment on the leased premises; calculate the changes; obtain a Procurement Request (PR) for additional rent (CPI) or lump sum payment (taxes); send a unilateral supplemental lease agreement to the Lessor documenting the changes in rent or any lump sum payments due; and coordinate payments with the Accounts Payable team in Accounting.

B. Instructions On The Use Of Rent Adjustment Clause(s) Other Than The Standard CPI Or /Tax Adjustment Clause :
Documentation from an independent source must be submitted by the Lessor to support any increases requested , e.g. invoices showing actual costs from a 3rd party provider, such as a utility company, service company, etc. Follow instructions in lease to calculate rent adjustment; obtain P.R.; send a unilateral supplemental lease agreement to the Lessor documenting the changes in rent or any lump sum payments due; and coordinate payments with the Accounts Payable team in Accounting.

C. Tracking Rent Adjustments: Leases that include any type of rent adjustment clause must be identified in REMs and tracked by the Logistics Service Areas to ensure they are processed in a timely manner since missed adjustments can increase FAA's potential liability under the lease and may result in the payment of late fee.

D. Frequently Asked Question:
"Why does the RECO have to prepare and send a unilateral Supplemental Lease Agreement for a rent adjustment since the lease already contains the appropriate clause?"
Answer: The lease contains the provision of when and how the adjustment operates; however the lease does not show the actual calculations or amount of the new rent and/or lump sum payment. The SLA makes it easier for everyone reading the lease to know exactly how much the most current rent is and any lump sum payments paid during the course of the lease without the need to search through the lease file for correspondence. And lastly, it affords the Lessor the opportunity to raise any issues on how the new rent and/or lump sum adjustment was calculated.